

Blackley on Vietnam and the MIAs

Racial Quotas: Clinton Forward, GOP Back

NATIONAL REVIEW

YANKEE DOODLE CANDIDATE: Pat Buchanan's New Traditionalism

God and Man at the Supreme Court

As Bosnia Burns: Chirac's About-Face

Legal Services: The Empire Strikes Back



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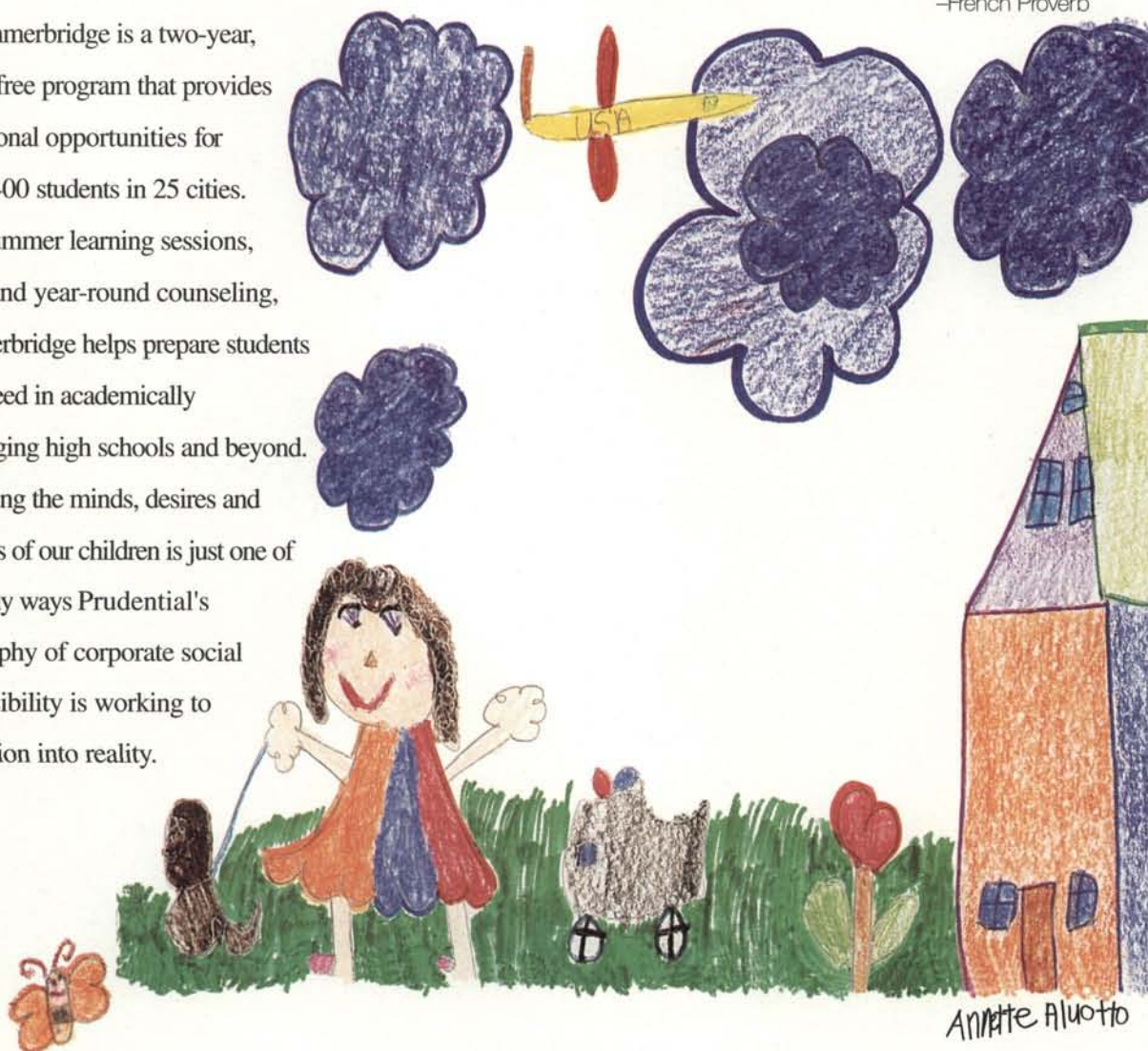


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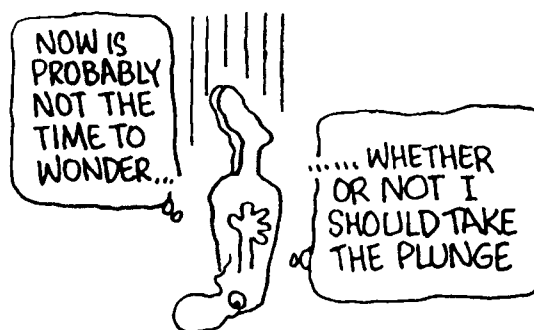
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NATIONAL REVIEW

AUGUST 14, 1995 VOL. XLVII, NO. 15



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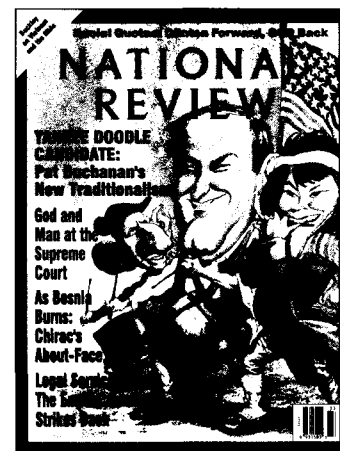
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Cover illustration by Roman Genn



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LETTERS

Right to Life and Death?

Ernest van den Haag argues ["Make Mine Hemlock," June 12] that society is not justified in forbidding suicide because the moral right to die is as "fundamental" as the moral right to live. But whence, in his godless and, as he would have it, amoral world, is the moral right to live (or die)? On his premise, society is not justified in forbidding murder (or suicide), which, I think, explains why I have always been somewhat uneasy in his company.

Walter Berns
American Enterprise Institute
Washington, D.C.

On Cyprus

Brian Crozier's "The Forgotten Republic" [June 12] is not borne out by the facts. Intercommunal strife did not occur until 1958, after a bomb exploded at the Turkish News Bureau in Nicosia. In 1984, Turkish Cypriot leader Rauf Denktash admitted the bombing was the work of a Turk. The aim was to incite Turkish Cypriots against Greek Cypriots.

Cyprus became an independent republic in 1960, but the divisive nature of the constitution made government operation difficult. President Makarios's 1963 amendments to facilitate the smooth functioning of the state were rejected by the Turkish Cypriots. Under Turkish pressure they withdrew from the Cabinet, the House of Representatives, and public service. They were not "expelled."

Turkish Cypriot extremists precipitated the 1963 intercommunal troubles to show that Greek and Turkish Cypriots could not live together and needed a partitioned country. Turkey bombed Cyprus in 1964 and threatened invasions in 1964 and 1967. In an effort to restore normality, the Cyprus government initiated UN-sponsored talks with the Turkish Cypriots for new constitutional arrangements. No more violence occurred until the 1974 Turkish invasion when a coup was carried out against President Makarios. Using the coup as a pretext, Turkey invaded Cyprus in July and August, thereby occupying nearly 40 per cent of the country.

The crimes perpetrated by the Turkish army are documented in a 1976 European Human Rights Commission report de-

scribed by the London *Sunday Times* on January 23, 1977, as a "massive indictment of the Ankara government for the murder, rape, and looting by its army in Cyprus during and after the Turkish invasion of summer 1974." In 1983, the Turkish-occupied areas proclaimed a Turkish-instigated "unilateral declaration of independence" which the UN Security Council condemned, declaring it and subsequent secessionist acts legally invalid.

In 1994, the UN Secretary General reported that "the Security Council finds itself faced with an already familiar scenario: the absence of agreement due essentially to a lack of political will on the Turkish Cypriot side." The Cyprus government remains committed to a negotiated settlement that will guarantee an independent, sovereign, and federal Cyprus with a functional constitution safeguarding human rights and fundamental freedoms.

Miltos Miltiadou
Embassy of Cyprus
Washington, D.C.

Mr. Miltiadou blames the 1963 intercommunal troubles of Cyprus on Turkish Cypriot extremists, but the troubles started much earlier. The Greek Cypriot terrorist organization, EOKA, killed hundreds of ethnic Turks between 1955 and 1958, as well as Greek Cypriots opposed to Enosis (union with Greece). Although the Turkish Cypriots proclaimed their independence in 1983, they accepted the UN Secretary General's draft agreement of 1984 for a co-equal, bizonal federation. However, President Spyros Kyprianou of Cyprus, at a New York summit with President Denktash in January 1985, summarily rejected the proposal. And the tensions continued. —BC

Authoritarian Notion?

In "Lost Right?" ["The Week," July 10] you stated: "Whether the case involves David Koresh or Rodney King, officers who daily put their lives at risk should get the benefit of the doubt, regardless of the operational folly of their political bosses." Good grief! The authoritarian notion that doubt should be resolved in favor of the state and its agents is repugnant to the fundamental assumptions and founding documents of our Republic. King, Koresh, and all 127 men, women, and children at Mount Carmel were endowed with the

right to life, liberty, and the pursuit of happiness. Governments are instituted to secure these rights, not to protect the police, or so the Founding Fathers believed. How disappointing to find NR in dissent.

William P. Cheshire
The Arizona Republic
Phoenix, Ariz.

The editorial made clear that while law-enforcement officers should get the benefit of the doubt, every doubt should be investigated. We have repeatedly called for hearings on Waco. And, of course, once a doubt becomes certain wrongdoing, police and federal agents are subject to the law like everyone else. —ED.

Multicultural Schools

I was surprised that multiculturalism was not mentioned in your item on Ramon Cortines, former chancellor of the New York City Schools ["The Week," July 10]. He opposed my efforts to end taxpayer financing of anti-American books and my attempt to pass the "American Superiority" Resolution, which would have mandated the obvious in school materials: that the values of George Washington are superior to those of Che Guevara; that guidance by the Bible is superior to paganism; that free-market capitalism is superior to Marxism; etc. Instead, Cortines embraced moral relativism, stated that he would use "all authority vested in [him]" to stop me, and claimed that my resolution "suggests that [immigrant students] leave their culture outside the schoolhouse doors."

Recently I proposed adding pro-American books to the school libraries. Cortines stated that though he was not "proposing censorship of particular books or ideas . . . this resolution is just a change in technique which results in the same end: repudiation of other cultures." Only in the mind of a fanatic multiculturalist would adding pro-American books be deemed an insult to other cultures.

Frank Borzellieri
School Board 24
Flushing, N.Y.

Correction

There were two errors in my article "The 101st Senator" [July 31]. I reported that Sheila Burke was involved in protests against San Francisco State University president Hayakawa and with Nurses for Moynihan. Mrs. Burke, who attended the University of San Francisco, flatly denies both.

Rich Lowry
NR National Political Reporter
Washington, D.C.

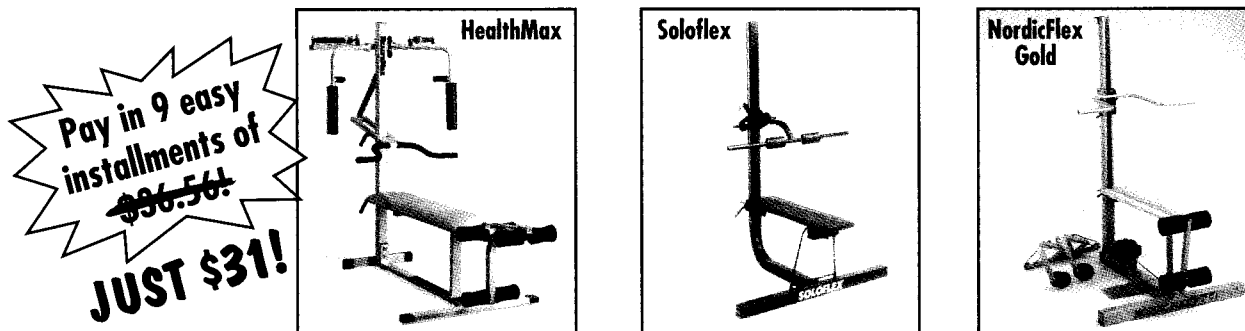
For correspondence on the Legal Services Corporation, see p. 44.

Editor's note: Letters of 300 words or fewer have a greater chance of being published.

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FROM THE EDITOR

Little Girl from Little Rock

■ Searching for phrases to describe Hillary Rodham Clinton's first newspaper column, I find myself sounding like a wine snob: "a certain naïve charm," "fresh and green-tasting with hints of corn," and "needs plenty of time to mature—keep in a dark place."

It may not be Mrs. Clinton's own handiwork, of course. It lacks, for instance, the wacky sophomoric platitudes of her valedictory address at Wellesley—the collected works of Marcuse, Abbie Hoffman, and the Weathermen put through a blender and spread very thin. Nor does it have any taint of her earnest postdoctoral search for "meaning."

Indeed, she seems to have regressed to the fourth grade, where she is now writing about "places I have been" and . . . well, read on:

"I also have met a lot of interesting people. Some are famous, like Lady Bird Johnson, Nelson Mandela, and Mother Teresa. But most are men and women we never hear about who wake up in the morning" etc., etc.

Through all Mrs. Clinton's personality changes, however, a certain Essential Hillary shines though: bossy, determined, ambitious, and out of her depth.

Once she saw a vision on the Road to Woodstock. It turned out to be an hallucination, or at any rate it has had very disappointing results. But there is another Vision just around the corner if only we would keep quiet and follow her. Orders have not worked; perhaps a little soft soap will do the trick.

Hence, ". . . this column will give me the chance to talk things over in the hope that some of you will join the conversation."

Over to you, Florence.

■ Recent articles in NR have dealt with the delicate question of what powers should be given to the FBI in a politicized age. Much depends, of course, on how sophisticated the feds are; Can they distinguish between a Bollinger Bolshevik and the real thing?

I am indebted to Bob Conquest for guiding me to a footnote by the distin-

guished criminologist, Sir Leon Radzinowicz, about a philosophical policeman from Scotland Yard who did just that.

Sergeant W. Reiners, of the Metropolitan Police Office, called on Karl Marx in London on August 1, 1874, in connection with his petition to become a British subject. Marx did not fool the London bobby.

"He is the notorious German agitator, the head of the International Society, and an advocate of Communist principles," wrote the sleuth in his official report, adding significantly: "He has not been loyal to his own King and Country." Hence, by implication, he was unlikely to be loyal to Britain's.

Good work, Sergeant. Keep an eye on the blighter.

■ May I make clear that the non-appearance of the Trans-O-Gram in this and the previous issue is *not my fault*. I have to be categorical about this because the last time it happened, I was verbally assaulted by a Supreme Court Justice, a distinguished historian, and several elected officials in a public place.

Mr. Kem Putney, our puzzle-maker, is indisposed. We decided not to run an earlier Trans-O-Gram because its devotees are hawk-eyed (and so would notice) and passionate (and so would kick up a fuss). But we may be forced to such a recourse if Mr. Putney's indisposition continues.

Just don't blame me.

■ And now for a real apology. I am indebted to Richard Cowden Guido for correcting my quotation from Dostoyevsky. He points out that what Ivan Karamazov actually says in *Brothers Karamazov* is that without God "everything is permissible."

As Mr. Cowden Guido points out: "It was Christ who said that everything is possible, albeit with God, not without Him." Not therefore a trivial mistake.

My apologies and my thanks to Mr. Cowden Guido. In future I will try to live up to journalism's first rule: *Always verify*. —JOHN O'SULLIVAN

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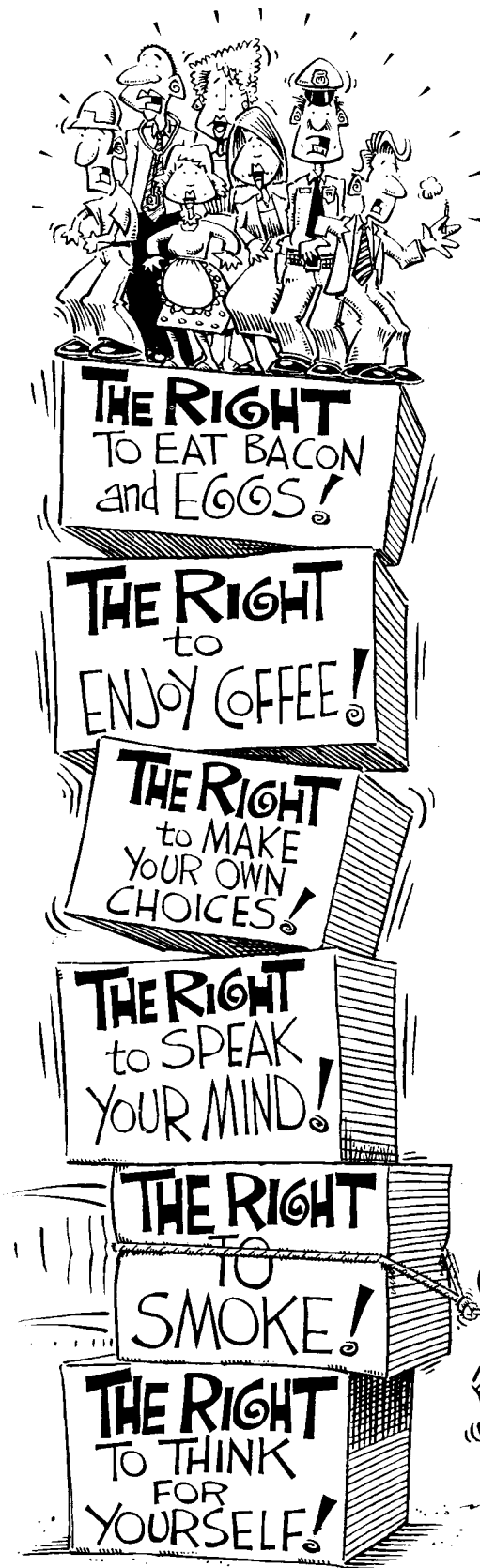
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FOR THE RECORD

■ Announcing he was quitting as **Bob Dole's** South Carolina co-chairman to take same job with Sen. **Phil Gramm's** presidential campaign, former congressman **Arthur Ravenel** cited as reason Dole's chief of staff, **Sheila Burke**: "She's a former liberal Democrat, and she's still liberal, and it's said she has a great deal of influence over Senator Dole." Noting recent outbreak of articles about Burke's influence on Dole—including **John Fund's** in *Wall Street Journal* and **Rich Lowry's** in *NR*—*Washington Post* ran story with headline "Dole's Chief of Staff Is Magnet for Criticism." *Post* also quoted conservative activist **Paul Weyrich**: "I was the one to fire the first salvo. Anything good we've gotten from Dole has been over her dead body." . . . Dole, though, has picked up support from unexpected quarter: Arkansas chicken mogul and former **Clinton** buddy **Don Tyson**, whose spokesman says "Bill Clinton's election is the worst thing that has ever happened to Tyson Foods and the state of Arkansas." . . . Air of inevitability to entry of **Newt Gingrich** into presidential race? Gingrich's recent emphasis to interviewers that Majority Leader **Dick Armey** runs House on day-to-day basis may be Speaker's way of preparing colleagues. Newt will take the plunge, says columnist **Cal Thomas**, who notes he wagered \$50 with Heritage Foundation President **Ed Feulner**—a bet Feulner wanted to withdraw after hearing a Gingrich address. . . . **Phyllis Schlafly**, chairman of Republican National Coalition for Life, says five GOP presidential candidates have signed pledge to support Republican platform's pro-life plank: **Phil Gramm**, **Pat Buchanan**, Rep. **Bob Dornan** (Calif.), **Alan Keyes**, and Sen. **Richard Lugar** (Ind.). . . . On Democratic side, *New York Times* clearly worried about third-party threat to Clinton—it ran front-page article with unusually negative quotes about potential Clinton rival **Jesse Jackson**. Sample: **Deneen Winn** said, ". . . he's better at giving speeches than doing anything." . . . Buckpac alert: Former Connecticut Senator and Governor

Lowell Weicker told *USA Today* he knows it won't be easy but he's thinking about presidential race as independent and—seeking to stir more controversy?—asserted: "I'm no damn fool."

■ Behind the scenes at special Senate committee investigating Whitewater: Serious consideration given to calling former Whitewater special counsel **Bob Fiske** as witness. Fiske said he found no evidence that White House aide **Vincent Foster** was worried about Whitewater when he committed suicide. In Foster's handwritten notes which were available to Fiske, however, the committee found plenty. Fiske was initially recommended for counsel's spot by ex-Clinton counsel **Bernard Nussbaum**, who has emerged in committee hearings as leader of efforts to block police from searching Foster's office. In private practice, Nussbaum and Fiske were friends and gave each other client referrals. . . . Whitewater panel member Sen. **Frank Murkowski** (R., Alaska) hit front pages by holding up Foster's briefcase to show Clinton aides couldn't have missed suicide note inside. He also prompted first Watergate-style malapropism from defensive Democrats. Thrashing around with briefcase, indig-

nant Clinton defender Sen. **John Kerry** (D., Mass.) announced—in a quote gleefully used by conservative journalists—"When you pull the files out, the briefcase closes essentially shut. You can't see in it. I can't see in it. Nobody could see in it."

■ National Journalism Center, which offers 12-week internships for college students, starts fall session September 25, with application deadline September 8. Contact **M. Stanton Evans** or **Mal Kline** at 800 Maryland Ave., N.E., Washington, D.C. 20002. Phone 202-544-1333, fax 544-5368. . . . **Les Lenkowsky**, Hudson Institute president, says **Wm. F. Buckley Jr.** will present **Doolittle** award for national-security contributions to **Barry Goldwater** at National Press Club on September 28; Sen. **Sam Nunn** and former VP **Dan Quayle** also on program.

■ North Korea dictator **Kim Jong Il** is back in view, and Asia experts say (this week, anyway) he has consolidated power. . . . Vatican considering as future archbishop of Saigon Msgr. **Nguyen Van Thuan**, whom Hanoi hates as anti-Communist nephew of former South Vietnam President **Ngo Dinh Diem**. . . . *Washington Times's* **Bill Gertz** reports Moscow is trying to slow U.S. ABM development because it fears competition with Russian missiles in international arms markets. . . . Prodded by Sen. **Jesse Helms** (R., N.C.) and Rep. **Robert Torricelli** (D., N.J.), State Department is threatening Nicaragua with aid cutoff if it does not compensate citizens for property seized by former Sandinista regime. . . . Two British detectives have written book claiming American surgeon **Francis Tumblety** was suspect in four London murders and may have been the real **Jack the Ripper**.

■ Columnists' notes: **Hillary Clinton** says she hopes her new syndicated column will make her more like **Eleanor Roosevelt** and awaken everyone to the "human dimension of our lives." . . . Disgruntled by delays on conservative legislation, *Wall Street Journal's* **Paul Gigot** compares U.S. Senate to "daily running of 100 Pamplona bulls without the discipline." . . . For Jews worried about too much assimilation by American culture, *New York Times* columnist **William Safire** has startling statistic that may prove opposite: bagels now outsell donuts. —OCD



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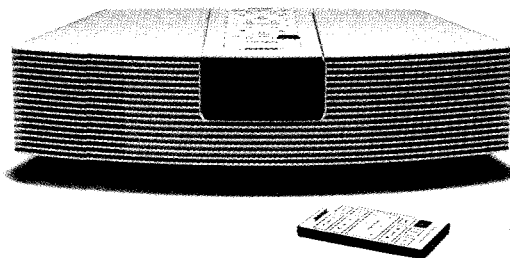
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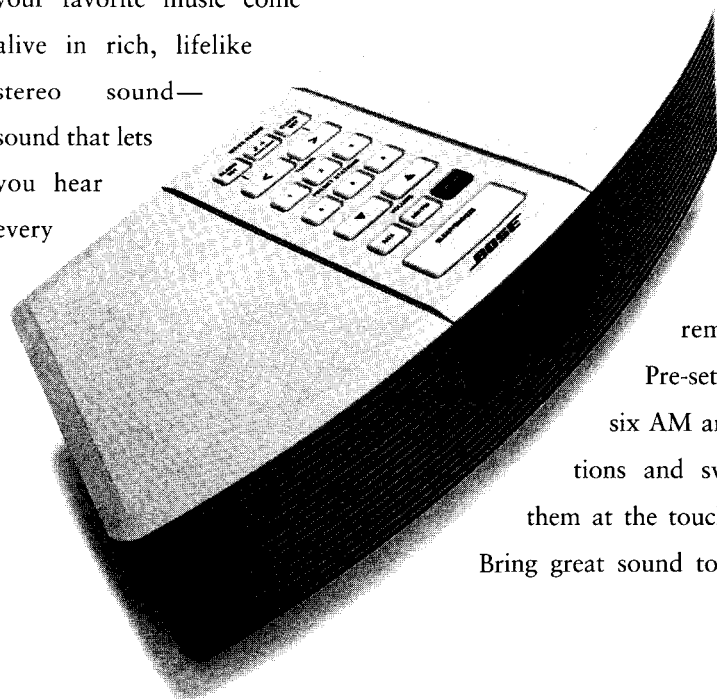
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THE WEEK

■ President Clinton has finally had it with Bosnia. He's thinking of deploying the Bureau of Alcohol, Tobacco, and Firearms.

■ Item by item, the Contract with America is falling a couple of Republican senators short of enactment. Regulatory reform is the latest victim. By the time the reform bill hit the Senate floor in July it had been weakened to such an extent—no provision for applying the reforms to current rules; weakened provisions for judicial review of regulations—that it had lost the support of free-marketeers like the Competitive Enterprise Institute. Even then it was headed for trouble with the Democrats. They set up a negotiating troika of John Kerry (Mass.), Carl Levin (Mich.), and John Glenn (Ohio) that was less interested in compromise than in scuttling the bill. One list of demands the negotiators submitted to Republicans actually had an asterisk reserving the right to make more demands—just in case the current ones were met. Meanwhile, the OMB's czarina of regulatory affairs, Sally Katzen, kept up a drum-beat of outrageous charges, while the media, especially ABC News, retailed its own (children dying from tainted meat topped the list). The GOP response was lost in the buzz. In the end, Bob Dole got all Republicans, even prodigal moderates like John Chafee, to vote for cloture on the bill. But that wasn't enough. And it won't be until Senate Republicans get some new colleagues.

■ In the game of inside baseball, Florida Senator Connie Mack, grandson of the legendary Philadelphia A's owner, recently hit a grand slam, as Senate Republicans adopted most of the internal-rule reforms he had been pushing. Henceforth, at the beginning of each new Congress, Republican senators will vote to adopt an agenda, a mini Contract with America. A committee's choice of its chairman—are you listening Mark Hatfield? John Chafee?—must now be ratified by a secret vote of the whole GOP conference. And committee chairmen will be limited to six-year terms. All of this tends to chip away at the senatorial independence that has made it possible for Republican senators to abandon key provisions of the Contract. Adoption of the rules is the best thing that could have happened to Senate Republicans

this year—short of Mark Hatfield's being sent down to the minors.

■ Yes, we want the Supreme Court rebuked sometime, somewhere. But is the flag-burning amendment the right time and place? If Congress really wanted to light a fire under the Court, it would invoke Article III, Section 2 (“... the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make”). Passing an amendment concedes the Court's power. Besides, if we need an amendment to undo every judicial outrage, the Constitution will look like a flea market. Leave the junk business to the courts.

■ When Harold Rogers (R., Ky.), chairman of the Commerce, Justice, State, and Judiciary Subcommittee of the House Appropriations Committee, decided to triple funding for programs instituted by last year's Violence Against Women Act, from \$25 million to \$75 million, congressional women, including Republican Conference Vice Chairman Susan Molinari, howled at his stinginess. Any funding below the Clinton Administration's \$175-million request, it seems, is sheer misogyny. Appropriations Committee Chairman Bob Livingston (La.)—a good cop working in a bad neighborhood—tried to stand his ground, but a compromise eventually sent an additional \$40 million into an account for battered-women programs, much of which will end up in the pockets of the feminist Left. Republicans need this old-style politics like a fish needs a bicycle.

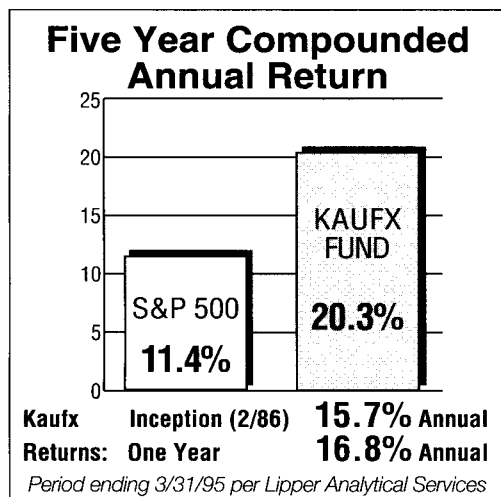
■ The White House report on affirmative action includes the following triple-negative doozy: “The federal programs . . . do not unduly burden non-beneficiaries.” In English (we hope this does not unduly burden non-English speakers), that means the onus



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An error was found in Robert Novak's article after it went to the printer. P. 33, col. 3, the quotation should end: "... a Buchanan party entirely."

that affirmative action currently imposes on men and whites is, well, due. Call it the white man's burden.

■ Feminists and gay-rights advocates have taken a new turn into the perverse. Congress is considering legislation—put forward by Gary Ackerman (D., N.Y.) and Tom Coburn (R., Okla.)—to require states to test newborns for HIV, just as they test for diseases like syphilis and sickle-cell anemia. The advantages of knowing a baby's HIV status are many. The child can be treated immediately with AZT, which may reduce his chances of actually developing AIDS. The mother can avoid breast-feeding, which transmits AIDS. Finally, special precautions can be taken to protect the child against illnesses like pneumonia. But the sexual radicals don't bother with details. The proposed testing of babies, the president of the New York City chapter of NOW recently wrote, "is just one example of the erosion of a woman's right to control her own [*sic*] body." Gay-rights activists, meanwhile, don't like the idea of *any* testing. Forget "Suffer the little children." Try, Let the little children suffer.

■ Officials of the Republican National Committee arrived at the office one morning to discover that most of their issues had been stolen. They were later found in the Oval Office, but Clinton aides say they have no idea how they got there.

■ Malcolm S. (Steve) Forbes Jr. is thinking of joining the field of Republican presidential candidates, and why not? In an earlier era his scant political résumé would have been an automatic disqualification, but when preachers, talking heads, and billionaires seek the Oval Office, Forbes's eight years as chairman of the Board of International Broadcasting make him seem like John Adams. Forbes represents the total-immersion

wing of the supply-side movement; his main issues are the flat tax and sound money. He thinks prosperity will solve many of the problems that underlie the social issues. He is also unimpressed with the Beltway fixation on balancing the budget. By itself, this seems too meager to serve as a winning formula for him, or for the GOP. But it was certainly part of Ronald Reagan's winning formula. It would not be a bad thing to add it to the current Republican mix.

■ Michael Lind has been described as a man full of learning, information—and himself. Evidence of the last appears in a review of Dick Armey's new book, *The Freedom Revolution*, in which Mr. Lind blithely accuses the congressman of having "bungled his math." Armey had written that an individual in the lowest fifth of all incomes in 1979 was more likely to have advanced to the top quintile ten years later than to have remained mired in the lowest group. That struck Mr. Lind as a politically inspired howler. It isn't. Armey's statement is verified by a Treasury Department study that tracked the ups and downs of 14,000 taxpayers during the Eighties. Treasury found that roughly 17 per cent of the people who were in the lowest income bracket during a typical Eighties year rose to a higher bracket in the following year. As a result, only 14 per cent of those people stuck at the bottom in 1979 were still there ten years later, while 15 per cent had made it to the highest income bracket. These success stories were mainly baby-boomers, not unlike Mr. Lind himself. Unfortunately, he thinks he's the only one.

■ Acting in unseemly haste, the U.S. Congress is voting on whether to move a statue of some suffragettes up from the Capitol basement, where it has been sitting since 1921.

■ The banking industry's version of the abominable snowman has been spotted once again. After massaging data from a notoriously flawed study by the Boston Federal Reserve Bank, researchers at the Chicago Fed now claim that banks do indeed reject blacks more often than equally qualified whites. It's not necessarily racism, mind you. William C. Hunter, author of the latest study, allows as how bank credit officers, who are overwhelmingly white, simply have trouble relating to applicants who are from different cultural and economic backgrounds. But if cultural biases are at work, will Mr. Hunter explain why the relative denial rates by race are the same at black-owned banks as white-owned banks? And why the default rates on loans approved for blacks and Hispanics are about the same as for whites? Bankers care about money, not race.

■ "The GOP is on the brink of being embroiled in a bitter and untidy debate about immigration reform," begins Jamie Dettner's story in the estimable *Insight*



A New Enthusiasm

I've got a crush on Jacques Chirac:

I like his boxer's kick.

I also like the nose he thumbs

And when he lobs a brick

At goo-goos on a Greenpeace boat,

But I like most of all

The way he sticks the President

As if he were de Gaulle.

—W. H. VON DREELE

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magazine. But Dettner, otherwise perceptive, illustrates one reason for the untidiness. He relies on the Urban Institute's estimates of immigrant welfare participation and net fiscal impact. But those estimates are the result of manipulation, as UC San Diego Professor George Borjas showed in the April 17 *NR*. The Institute eliminates the immigration problem by eliminating problem immigrants—for example, Mexicans are removed from the total on the grounds that many are illegal, although Mexico is also the leading source of *legal* immigrants. Authors Jeffrey Passel and Barry Edmonston have yet to challenge Borjas. But in the one-way immigration debate permitted by our political elite, they probably figure they don't have to.

■ Rebels in the Sudan captured some UN workers and then, for unknown and unimaginable reasons, let them go. Like, we want them back or something?

■ Senator Jesse Helms has proposed a landmark foreign-policy bill that would (among other things) abolish three semi-autonomous agencies—the U.S. Information Agency (USIA), the foreign-aid dispensing Agency for International Development (AID), and the Arms Control and Disarmament Agency (ACDA)—and fold their residual functions into the State Department. The Helms bill has, deservedly, garnered widespread support. But Senator Joseph Lieberman has offered an amendment that would preserve USIA's autonomy, on the grounds that its unique "public diplomacy" function (which includes supervision of the Voice of America) is better served by a degree of independence from State Department micromanagement. We join many prominent conservatives—Jeane Kirkpatrick, Malcolm Wallop, Steve Forbes, Ed Feulner, Michael Novak, Eugene Rostow, Richard John Neuhaus—in seconding his motion.

■ Bill Clinton's effort to tar the Republicans as "isolationists" is not working abroad. The Polish foreign minister met with Senator Dole in mid July and came

away with a sense of what's good for Poland. According to the *Financial Times*, he "expressed doubts about the Clinton Administration's commitment to early NATO enlargement, and suggested that his government was already looking to a Republican President to make good on the promise after next year's presidential election." All the progress in East-West relations, he added, had been made under Republican Presidents.

■ *New York Newsday* folded after ten years, victim of journalistic economics, and of the lack of a constituency for blue-collar liberalism. In the tabloid's last week on earth, some PC gnome changed a reference to The Five Blind Boys of Alabama, the black gospel group, to The Five Blind Men of Alabama. Another year, and it would have been The Five Visually Challenged Persons of the Cherokee Homeland.

■ *Kids*, the hot new movie critics call "frank," "serious," and a "wake-up call to the world," recounts a day in the life of a middle-class white Manhattan teenager, who takes frightening quantities of illicit drugs, talks in unremitting obscenities, beats a black man senseless with his buddies, and pursues his hobby of deflowering virgins. He also has AIDS. *Kids* is nothing new for the Disney-owned film distributor Miramax and its chief, Harvey Weinstein, who brought you *The Crying Game* (adventures of a transvestite), *Pulp Fiction* (shocking violence as cool humor), and the Catholic-bashing *Priest*. Yet when *Kids* received an NC-17 rating, Disney pretended to draw the line by refusing to let Weinstein market it under the Miramax name. So Weinstein set up an "independent" distributor called Excalibur. You know—like *The Sword in the Stone*.

■ You are Rodney King. *The Rodney King*. And you are on a roll. Back in 1991 you led police on a 100-mph chase through Los Angeles and then tried to slug it out with them. Those guys were rough, but when they were acquitted you had the Big R, man, that's Riot, a billion-dollar riot. Nobody disses Rodney King any more, man. You are Rodney King. Yes, you have been picked up twice since then for DWI. Yes, you have been picked up twice for wife-beating. And, oh yes, you picked up a prostitute who turned out to be a transvestite and so you tried to run him over. You're on a roll. Maybe you'll star in a movie with Hugh Grant. No one can put Rodney King in jail, not *the* Rodney King. They dis Rodney King, they've got another billion-dollar riot. Hop in. We can get from here to Santa Monica in ninety seconds. Take a pull on this Old Screech Owl.

■ From the *New York Times*: "Sounding hoarse but robust, President Boris Yeltsin appeared on television from his hospital room here tonight to prove that while he was sick, he was not as sick as the Kremlin had led people to believe by insisting he was fine."



Run, Jesse, Run

*His fangs no longer frighten.
His nails have been filed down.
He doesn't raise a hackle
On folks in "Hymietown."
His coalition's faded.
The rainbow's lost its hue.
God knows he's no Attila,
But I believe he'll do.*

—W. H. VON DREELE

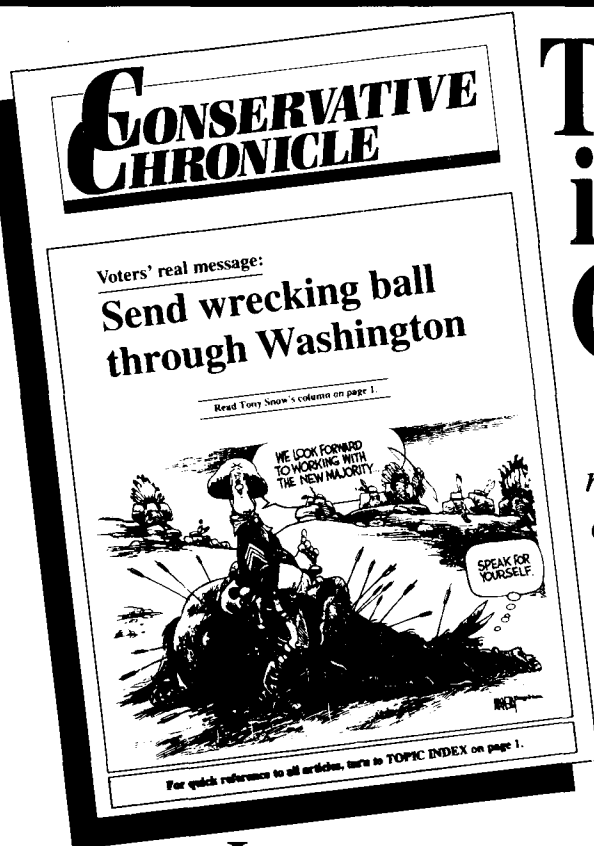
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Equality of Opportunism

AFTER more than four months, the Clinton Administration's review of affirmative-action programs concluded with a ringing defense of a corrupt status quo. To be sure, President Clinton's speech enunciated some limits to the scope of affirmative action: it cannot create a quota, involve preferences for the unqualified, lead to reverse discrimination, or continue forever. But these criteria are elastic. Consider the response of Christopher Edley, the Harvard Law professor who directed the review, to the question of what "reverse discrimination" means to the President: "When we draw distinctions based on immutable characteristics, it has to be carefully justified . . . and it ought to be done with reluctance, caution, and attention to the details of minimizing the fallout." Reluctant discrimination, it turns out, is not discrimination at all. It should come as no surprise that Deval Patrick, the head of the Justice Department's Civil Rights Division, could not identify one of the Federal Government's scores of affirmative-action programs that Mr. Clinton's standards would render suspect.

Mr. Clinton's speech received favorable press reviews ("a sermon the nation needed to hear," declared the *New York Times*); even a critic called it "moving and eloquent." Mr. Clinton's sincerity in supporting affirmative action should probably not be doubted. It is true that his political base would have revolted at anything less than unconditional support, but it seems likely that he shares the belief in it. Still, his speech was painfully disingenuous. He dismissed opposition to racial and sexual preferences by asserting that "the affirmative-action explanation for the fix we're in is just wrong—it's just wrong. Affirmative action did not cause the great economic problems of the American middle class." True enough; but what major critic of affirmative action has ever said it did? Mr. Clinton said that discrimination had to have a remedy beyond simply being made illegal, because "that way still relegated blacks with college degrees as railroad porters." In fact, "that way" was tried for less than one decade, during which black America made more rapid economic progress than it has in the era of preferences.

The argument against affirmative action remains unrefuted by Clinton or anyone else. It is unjust for government to distinguish among citizens on the basis of immutable characteristics that have no relevance to their performance in school or on the job. Rather than canceling out the injustices of past and present discrimination, such preferences add to them. Moreover, they generate suspicions about the real accomplishments of minorities and women. And that is just one of the ways affirmative action needlessly poisons America's racial climate. It also creates more victims of discrimination and encourages race-consciousness. When pur-

sued through lawsuits, it puts race relations in an adversarial context that cannot fail to magnify grievances and harden positions. The threat of legal action against employers who fire or fail to promote minority employees discourages small businesses from hiring them in the first place. In addition, the regulations of the Equal Employment Opportunity Commission directly undermine merit—for example, by preventing employers from looking at job applicants' high-school transcripts because doing so would have a statistically "disparate impact" on minorities. It is hard to think of a set of policies more detrimental to the public welfare than affirmative action. If by defending it President Clinton has shown "a strong core of principle," as the *Times* remarked, he has inadvertently revealed that core to be rotten.

SINCE Democrats are ideologically and institutionally incapable of ending the governmental distribution of favors on the basis of race and sex, Republicans will have to do so. It is therefore disheartening to see signs of squeamishness in their ranks. Even Jack Kemp gives aid and comfort to affirmative action, warning Republicans not to run "a campaign that separates people by race and by gender" and complaining that opponents of affirmative action have yet to announce a policy "to replace it." He adds, "I'm going to get my head whacked" over this position.

If that's what it takes to knock some sense into Jack, NR is willing to oblige. In the first place, it is affirmative action that separates Americans by race and by sex; Republicans cannot fairly be blamed for noticing this. Since opposition to preferences is one of the party's most powerful issues, and since preferences can only be uprooted by exposing their outrageous details, the GOP should do everything it can to increase the visibility of the issue. Pete Wilson and Phil Gramm have set an example for other politicians, the former by pushing the University of California's Board of Regents to end racial preferences in hiring and admissions, and the latter by fighting almost alone in the Senate to defund federal set-asides.

Second, the alternative to affirmative action is a government that treats its citizens equally. No replacement for a destructive policy is wanted. Nobody asks a surgeon to replace a metastasizing tumor before excising it. For that reason, the current push among Republicans to link color-blindness to conservative urban policy initiatives is deeply misguided. Empowerment measures like tuition tax credits and the deregulation of labor and housing markets are worth championing for their own sake. But they present different issues from those raised by affirmative action. Packaging them together suggests that ending affirma-

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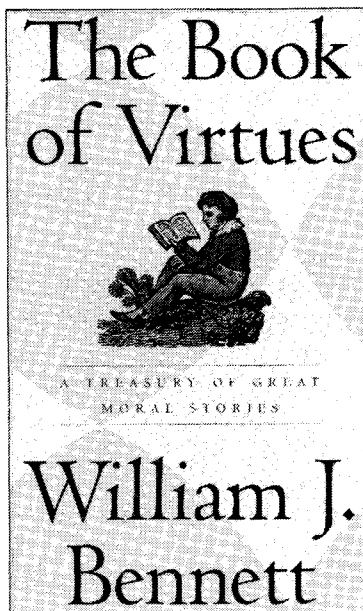
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At the Hearings

*As Waco makes the tummies churn
While, like a mortuary urn,
Whitewater's passed from Nussbaum back
To Al, who loves to work the rack,
The White House, bug-eyed watching Serbs
Along with polling from the 'burbs,
Jogs through the dog days, praying fall
Brings happy talk back to the Mall.*

—W. H. VON DREELE



tive action is something that needs compensation. It doesn't; it is damaging to everyone's real interests.

Republicans must make it clear that the problem extends beyond formal quotas to any type of government-encouraged preference. Abolishing mandatory preferences in federal contracting and employment, as in legislation to be sponsored by Senator Bob Dole and Representative Charles Canady, is a step in the right direction. But the private sector must also be relieved of the burden of legal preferences. The EEOC must be forbidden to "remedy" instances of discrimination by forcing companies to employ or pay damages to minority members or women who were not themselves mistreated. More important, Congress should eliminate the "disparate impact" standard, under which a company whose work force differs in racial composition from the surrounding community is presumed guilty of discrimination. Conservatives may argue among themselves over whether purely voluntary, private affirmative action should be banned (as adherence to the Civil Rights Act of 1964 would require), but market forces would probably minimize such discrimination once the steps outlined above were taken. That these steps had to be left out of Dole-Canady to avoid losing the support of Republican congressmen is testimony to the confusion and weakness prevalent in the party on matters involving race.

If Republicans ignore the racial and sexual preferences that affect most people, they will forfeit grassroots backing for their fight. Most people do not work for federal contractors and, while they may dislike preferences in principle, principle alone will not inspire them to act. Pete Wilson won over the Board of Regents and public opinion because he chose an issue about which parents care deeply: a good college education for their children. Moreover, the party gains nothing from this spurious moderation: the civil-rights establishment will attack any retreat from preferences, no matter how limited, as a return to Jim Crow.

The mistake lies in thinking that affirmative action

can somehow be made more acceptable. It cannot. It is a grave social injustice imposed by the U.S. Government. It cannot be reformed, modified, or improved. It can only be uprooted and abolished altogether. Anything less than that is a betrayal of the American idea.

To be sure, no bill that seriously tackles preferences has a chance of becoming law while a Democrat sits in the Oval Office and Republicans lack a veto-proof majority. But conservatives can win the argument even as they lose the votes. We urge conservative congressmen to support Dole-Canady while offering amendments to improve it. The resulting congressional votes, and possible Clinton veto, would sort out who stands where—not least among Republicans.

Poison Pill

CONSERVATIVES who attacked the Clinton health plan for pushing people into HMOs that would ration their care are hoping they won't have to attack Republican Medicare reformers for doing the same thing. Free-marketeers want the elderly to be able to choose whether to stay in Medicare or to put their share of its funds into HMOs, medical savings accounts (MSAs), or some other private insurance. They're afraid that the GOP plan—influenced, via Representative Bill Thomas (R., Calif.), by HMOs and insurers hostile to medical savings accounts—will tilt toward HMOs.

MSAs ought to be the centerpiece of any reform. These would allow a senior citizen to use his share of Medicare funds to buy private insurance covering any health expenses above a high deductible (say, \$4,000), while putting the remainder (roughly \$2,100) in the MSA to cover expenses below the deductible. The senior citizen's potential out-of-pocket expenses for a year would thus be capped (at \$1,900 in this example—the *average* out-of-pocket expenses today). And since funds remaining in the MSA at year's end could be withdrawn to spend at will, consumers would have an incentive to control health-care costs. Preliminary studies suggest that MSAs control costs better than HMOs do—and without intruding on doctor-patient relationships.

Some faint-hearted advocates argue that funds from MSAs should be spendable only on health care. Even the redoubtable Representative Bill Archer's MSA bill slaps a 10 per cent penalty on nonmedical spending. But such restrictions subvert the economic logic of MSAs: if people can choose only between spending on health care today and spending on health care tomorrow, they will have no real incentive to control medical costs. Medical care has to be brought back into the market economy and compared to all other goods and services when people make decisions.

If Republican politicians cannot see the greater ap-

peal of Medicare reform that, effectively, puts money in people's pockets, perhaps they should consider another line of work. They will be forced to do so a year from November if they bungle this one.

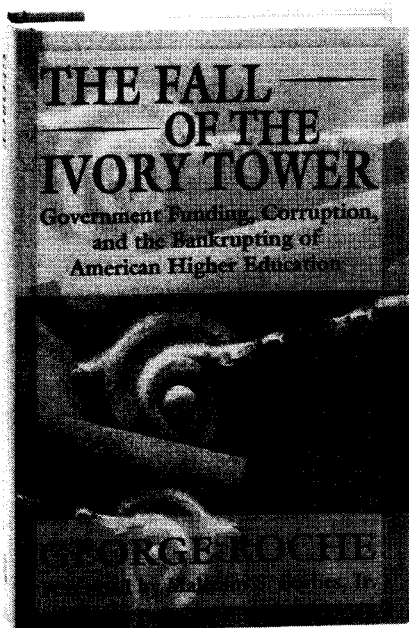
Gramm's Way

SENATE Republicans have been so balkanized on welfare that it looked for a while as if reform wasn't going to happen this year. But now Phil Gramm has united the two chief conservative factions—strict neo-federalists like Missouri freshman John Ashcroft, and anti-illegitimacy crusaders like North Carolina's Lauch Faircloth—around a bill that could point the way out of the Senate's welfare morass.

In the spring Mr. Ashcroft had introduced a bill allowing states a great deal of flexibility. His bill would send block grants to the states straight out of the Treasury Department, bypassing the old federal social-services bureaucracy and attaching no strings whatsoever. The bill also sought to make welfare less bureaucratic and more human, by allowing states and localities to contract out to religious groups for welfare services and providing a tax deduction for charitable activity assisting the needy.

The Gramm bill retains this approach in its essentials, but, recognizing that there are principles besides federalism—like work and family—adds a few strings courtesy of Faircloth. A state would have to require 90 per cent of the two-parent families now on its welfare rolls to have one parent working within three years, and 75 per cent of able-bodied participants within eight. The work would be precisely defined and the pay pegged to performance—two guarantees that the work requirements would be real. Meanwhile, the bill would prohibit states from spending federal dollars on additional benefits for women having more children while on welfare; on direct cash benefits to a minor who has a child out of wedlock; or on benefits to a household where the mother can't establish the paternity of her child. This would ensure at least symbolic progress (states could still spend their own dollars on all these things) against the illegitimacy that drives the nation's welfare crisis. An ideal welfare bill would incorporate a third goal: making the states raise more of the money they spend, by diminishing the block grants over time. But Gramm has made a good start.

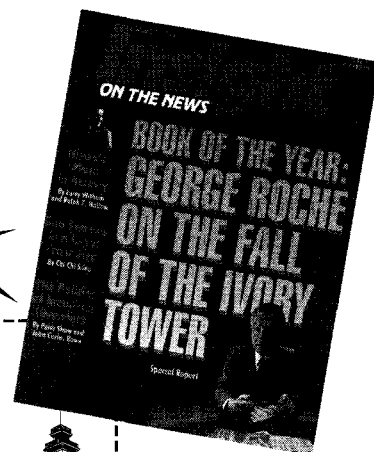
Pro-family groups are rallying to Gramm's bill, but it's still unclear what role it will play in the welfare end-game. Almost everyone—even Finance Committee Chairman Bob Packwood—agrees that the bill reported out of the Finance Committee is too timid, sending



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only AFDC back to the states and preserving the disastrous JOBS program. But with moderates warning against "punitive" measures, getting the votes for anything more becomes problematic. It's Bob Dole who will ultimately determine the balance. As with tax cuts and the Henry Foster nomination, he will serve himself well by steering the Senate Gramm's way: starboard.

Dien Bien Drina

AFTER years of bumbling, the British, French, and Americans have seen their Bosnia policy suffer two major shocks in as many months. First was the Serbs' seizure of some 370 "peacekeepers" as hostages in May; second was the Serb military offensive against the enclaves that the UN had long declared safe havens. Yet again, the NATO powers have responded with only a marginal change in their self-defeating policy—guaranteeing further humiliation and putting in place all the ingredients of greater disaster.

After the fall of Srebrenica, French President Jacques Chirac committed the sin of speaking the truth. NATO's policy made no sense, he declared; either the allies would take a firm stand or he would pull France's troops out. For these remarks, Chirac was hooted down in London and Washington. The British still insisted on the UN's "humanitarian" mission, which means a studious (and obtuse) neutrality; the Americans refused Chirac's request for U.S. helicopter transport to quadruple the number of peacekeepers in the key remaining enclave of Gorazde.

After lengthy negotiations, however, the allies have decided to take a stand at Gorazde: This haven shall not be allowed to fall. They will also reinforce Sarajevo and try to open a land supply line. The three powers presented an "ultimatum" to the Serbs on July 22 threatening "decisive" NATO air strikes should Gorazde be attacked.

Defenders of the policy claim that NATO has strengthened its position: The "rapid reaction force" mobilized by the British, French, and Dutch is larger and more combat-capable than before; the U.S. air strikes will now be against more "significant" targets. Yet the new moves represent only an incremental escalation of NATO's power—which may not be enough to fulfill the promise to defend Gorazde. Skeptics warn of another Dien Bien Phu—especially in view of the decision to retain the absurd UN veto over NATO actions.

A different and more promising strategy is available—to lift the arms embargo and enable the Bosnians (who are in fact superior to the Serbs in manpower and morale, though not in heavy weapons) to redress the balance of forces on the ground. Unlike lame threats of more "significant" air strikes, *that* offers a chance of a decisive result on the battlefield. President

Clinton threatens to veto Senator Dole's bill to that effect. But if Gorazde falls, events will have vetoed the current strategy.

Not Guilty

THE EPA claims that radon gas in American houses causes twenty thousand deaths each year from lung cancer and that 10 per cent of American houses are unsafe. That puts killer radon up there with AIDS, drug overdosing, and drunk driving. Twenty thousand is such a big number that one would expect to see clear evidence of higher lung-cancer rates in high-radon areas—Pennsylvania and Colorado, for example—than in low-radon areas.

In fact, as meticulous statistical work by Bernard L. Cohen, a physicist at the University of Pittsburgh, has demonstrated, lung-cancer rates are consistently lower in high-radon areas than in low-radon areas. Cohen has been working on this subject for about six years, refining his data and responding to criticisms. At first he was pretty much on his own. No longer, according to the newsletter of the Health Physics Society, the professional association of experts on radiation effects. The editor recently called for 500-word comments for and against the EPA's theory of radon contamination and couldn't find a single defender of the EPA. Many health physicists say the evidence is overwhelming that moderate doses of radiation are healthful because they stimulate immune and other defensive mechanisms within bodily tissue.

The only people hurt by the EPA's radon scare are a few rich enviro-liberals who wasted a couple of thousand dollars on basement fans and ducting. But the same junk science has been applied by government regulators to set unjustifiably stringent standards for cleanup of low-level nuclear wastes at hospitals, nuclear power plants, and nuclear-weapons establishments. The Federal Government currently spends about as much annually on cleaning up its nuclear-weapons plants as on making and managing nuclear weapons, and the costs of cleanup are scheduled to soar like Medicare under present environmental plans.

Congress should call hearings on Professor Cohen's findings and demand to know why federal regulators are not revising their standards and programs in line with an emerging scientific consensus. The savings would easily pay for ballistic missile defense.

Claire Sterling, RIP

CLAIRE Sterling, an occasional NR contributor, was a courageous investigative journalist, utterly unafraid to make connections between

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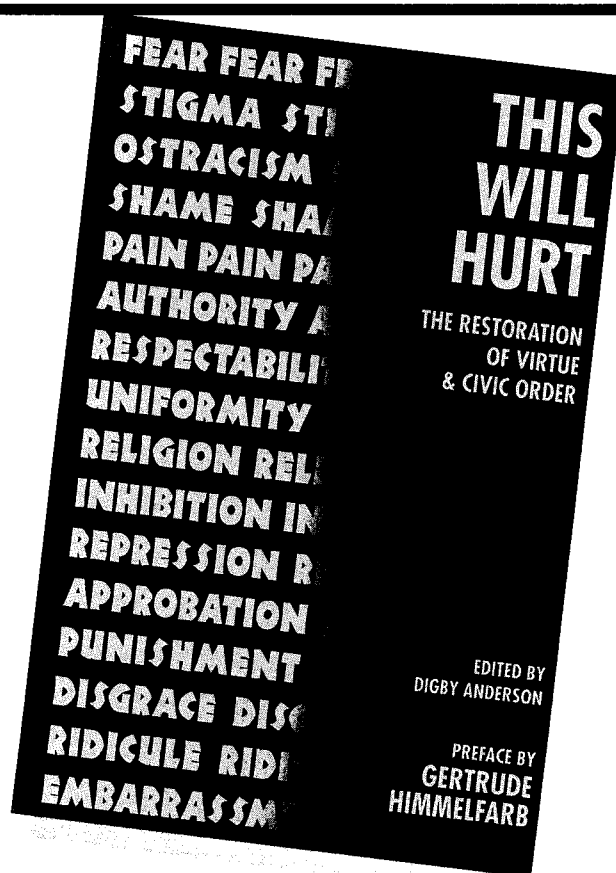
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gangsters, terrorists, assassins, and “respectable” wielders of great power. While she was working on *The Terror Network* (1981), the Italian government posted armed guards at her home. Her *Time of the Assassins* (1984) persuasively argued that Mehmet Ali Agca was a professional hit-man run by Bulgarian intelligence in the service of the KGB and assigned to assassinate Pope John Paul II. (*Cui bono?* The Soviets in Poland.) A formidable and brave journalist, Claire Sterling died of cancer at 76.

NOTES & ASIDES

■ Miss Roberta Greene
The Greene Group

Dear Miss Greene:

Given the fact that I don't think I have ever seen a copy of *Folio* magazine, it was slightly startling to see myself pictured in a full-page ad as though it were the first magazine I turn to. And then there was that awful quote up top, which appeared to have been spoken by me. I would rather be shot than use the word “indubitably.”

Yours faithfully,
Wm. F. Buckley Jr.

■ Dear Mr. Buckley:

I recently read an excellent column of yours in the local paper here, about the false assumption that legalization of a practice automatically confers social approval on that practice. You give your readers the impression that cocaine and marijuana were never approved by the FDA. In fact, the FDA never banned the medical use of cocaine. In the case of cocaine, the

FDA-recognized use is as a local anesthetic. You may regard this as a minor matter, since it was said that George Bush, while President, had great difficulty obtaining a bag of cocaine powder to use as a prop in giving a talk—even though it is widely available illegally. (Note that the commercial product is a 4 per cent or 10 per cent solution.)

Cocaine is classified as a Schedule II drug—the highest degree of restriction imposed on drugs with medical utility recognized by the FDA. (Schedule II drugs are associated with considerable regulatory inconveniences, but this classification does not prevent morphine from being the most widely used painkiller in U.S. hospitals.) As with any drug approved by the FDA to treat some condition, a physician may prescribe the drug for any other condition where its use is deemed appropriate in his/her professional judgment. What gives doctors pause is that, in the event of a suit concerning that prescription, the defense must give evidence that choice of the drug was within the “current standard of practice” for the condition treated.

As for marijuana, it is true that the FDA has not approved it for any medical purpose, but there is nothing odd about that, since the FDA typically approves pure substances, rather than herbals, for medical use. The chief active ingredient in marijuana, delta-9-tetrahydrocannabinol, or THC, was approved, under the name “dronabinol,” by the FDA in 1985 for use with cancer patients.

1993 was the year in which the endogenous cannabinoid that we all make was discovered, but we are still a long way from understanding how the body orchestrates this and other chemical signals in a psychoactively useful way. It is clear that fear motivates most of our irrational policies regarding drugs. How to calm public fears enough to encourage experimentation with new policies is far less clear. Your essays are nudging public opinion in the right direction.

Yours truly,
Michael Bastone
Buffalo, N.Y.

■ Dear Mr. Buckley:

I have a question that has particular relevance to your publication. How can a person be both a Christian and a capitalist, in view of Matthew 6:19-21, 24?

Sincerely,
Bruce Larson
Burlington, Vt.

Dear Mr. Larson: Nothing that asserts the relative value of heavenly treasures over earthly treasures, or of God over mammon, gets in the way of capitalism, if you see what I mean; which, sadly, you do not. Cordially, —WFB



ON THE SCENE

Misappropriations

RICH LOWRY



Dennis Dittich

WASHINGTON, D.C. **T**HE glossy bi-monthly magazine of The National Trust for Historic Preservation features articles on people restoring old houses and renovating local properties, advertisements for chi-chi vacation spots, and a lengthy real-estate section. With its roughly \$30-million-a-year budget, the group carries on a fight against development that includes advocacy (against the Contract's property-rights bill, for instance), publishing (*How Superstore Sprawl Can Harm Communities* is one title), and lawsuits against the Federal Government. It also gets a \$7-million federal grant: welfare for snobs.

The Interior Subcommittee of the Appropriations Committee voted recently to cut the subsidy in half next year in preparation for its eventual elimination. When the bill reached the full Appropriations Committee, House Majority Whip Tom DeLay tried to kill the subsidy outright. He lost on a voice vote. "If we can't eliminate this, we can't eliminate anything," was DeLay's

comment at the time. Representative Tim Hutchinson (R., Ark.) repeated the effort on the House floor and got trounced 129 to 281 with 100 Republicans opposing his amendment. "Like the National Endowment for the Arts," says Robert Pambianco of the Washington-based Capital Research Center, "the trust is a plaything for establishment Republicans."

The trust's surviving \$3.5-million hand-out will hardly derail GOP plans for a balanced budget, but it is emblematic of the traditional forces pulling Republicans away from their austere rhetoric when they come to the details. In June, the *Wall Street Journal* editorial page ran a list of the 284 programs the House Budget Committee recommended eliminating under the title "Is This for Real?" The answer, it turns out, is: Yes and no. The House Appropriations Committee—charged with producing the actual cuts—has indeed eliminated programs and in some areas is actually spending less than called for by the Budget Committee. At the same time, recent action on the budget shows that old spending instincts live on, especially in the "Cardinals" who head Appropriations subcommittees, and even in the GOP rank-and-file.

The House Budget Committee had recommended killing three Cabinet departments: Energy, Education, and Commerce. But by the time the Appropriations Committee and the full House are finished, at best only one—Commerce—will go, and even that promises to be a close-run thing. The Budget Committee hit list of smaller programs, meanwhile, is beginning to look more like what it has been traditionally, a conservative wish list with many of its items beyond reach. "For ten years, Republicans have said if only the Democrats would give us an opportunity to have votes on these things, we'd

kill them," says Steve Moore of the Cato Institute. "Now they have the power. Yet they're not getting rid of them." Every appropriations bill features its preserved pieces of the Old Order, every day on the House floor its small disappointments.

—The Interior Subcommittee appropriated \$164 million *more* for fossil-energy research than was authorized by the Science Committee. When appropriators want to spend more than authorizers, it's typically a sign of mischief. Especially in this case, since Science Committee Chairman Robert Walker is a friend of research and unlikely to shortchange it. Indeed, the Interior Subcommittee would pour \$12 million more into coal programs than even President Clinton requested. Not coincidentally, Subcommittee Chairman Ralph Regula is from coal-producing Ohio. Freshman Republican Todd Tiahrt (Kan.) offered an amendment to strip out all the unauthorized spending—some of which is destined for the pockets of corporate fatcats like General Electric—on the House floor, and lost by a whopping 144 to 267.

—The Appalachian Regional Commission, a 30-year old relic of the Great Society, was slated for elimination by the Budget Committee. But Hal Rogers, who represents a dirt poor district in Kentucky and is second-ranking Republican on the relevant Appropriations subcommittee, would have none of it. Nor would GOP Governors Don Sundquist (Tenn.) and Tom Ridge (Pa.), who wrote letters supporting it. Nor would congressional Republicans from the 13 beneficiary states, including 40 freshmen. "Once you lay it all out," one freshman said, "[the commission] starts sounding like the 'Contract with America.'" An amendment offered by Scott Klug (R., Wis.) to kill it on the House floor lost 108 to 319. So the House GOP is ready to spend \$92 million *more* on the commission than President Bush requested in 1991.

—The Clinton Administration has suggested, sensibly, that the Federal Government only fund local water projects with some national significance. Energy and Water Development Subcommittee Chairman John Myers, skipped over for chairman of the full Appropriations Committee by Newt Gingrich, has a better idea: larding it up as much as possible. His bill is bursting with local Corps of Engineers water projects covering such a wide range of

Mr. Lowry is NR's national political reporter.

congressional districts that there was no serious challenge to the spending on the House floor. "It's semantics," a Myers spokesman says, defending the projects. "Whose definition of 'pork' do you use is basically what it boils down to." And geography. Three of the projects, as it happens, end up in Myers's home state of Indiana.

THE work of the Appropriations Committee helped stoke a freshman revolt over a "rule" on a bill funding the National Endowment for the Arts (NEA). The rule sets the terms of debate on a bill and typically passes on a party-line vote. This one would have protected the NEA, which is unauthorized, from a routine House rule making it possible to strike unauthorized funding on the House floor. A cadre of freshmen—Mark Souder (Ind.), Steve Largent (Okla.), and Tom Coburn (Okla.)—quietly whipped votes against it and got enough to kill the rule—and send a message. "It [was] really out of frustration," says one aide. "There's a lot of great rhetoric, that we're going to do this. When it comes down to the appropriations process, we never do anything."

Defeating the rule gave the freshmen the leverage to force the House leadership—buffeted on its other flank by House moderates—to forge a deal ending NEA funding after two years instead of the planned three. Freshmen vowed to watch for other opportunities for floor ambushes, which don't necessarily alarm a leadership glad of any additional pressure on appropriators. On the NEA vote, two high-ranking Republicans, House Budget Committee Chairman John Kasich and House Republican Policy Committee Chairman Chris Cox, voted with the freshmen. Kasich also joined a successful Scott Klug effort to delete from the Overseas Private Investment Corporation (read: corporate welfare) \$10 million added by Appropriations.

All of this isn't just carping. Republicans, by snipping programs instead of pulling them out by their roots, risk obscuring their larger vision of government. "What we were really challenged to do last November is downsize the Federal Government," says Klug. "You only downsize the Federal Government by eliminating programs." And every time Appropriations doesn't zero out a program or spends anything unnecessarily, it makes the long-run job of balancing

the budget, which already requires ever deeper cuts with every year, even tougher. This is the message leadership has tried every day to pound into appropriators.

The man in the middle is Appropriations Committee Chairman Bob Livingston (La.), a conservative hand-picked by Gingrich for the hot seat. Livingston, whose committee has of course produced cuts unimaginable only a year ago, has to try to keep both the leader-

ship and the Old Bull sub-committee chairmen satisfied. "Toughest job in Washington," says one top GOP aide. And, despite the rhetoric, he doesn't always get help from his GOP colleagues. The Legislative Branch Sub-Committee recently voted to eliminate the duplicative Office of Technology Assessment outright. Republican Amo Houghton (N.Y.) teamed up with Democrat Vic Fazio (Calif.) to offer an amendment on the floor saving the office. It passed. □

Frère Jacques?

JOHN LAUGHLAND



doubt, Paris is doing little more than the diplomatic equivalent of ceasing to beat one's wife.

Chirac's rhetoric seemed encouraging at first. Shortly after taking office, the new President summoned his chief of staff for a dressing-down, letting it be known that he did not think the French forces in Bosnia had been acting robustly enough. Then, just before the G7 summit in Halifax, he demolished the prevalent diagnosis of the Bosnian war as "religious" or "ethnic." "The Serbs have neither faith nor law," he expostulated refreshingly. "They are just terrorists." With these words, he overturned the central shibboleth of French and British policy toward Bosnia, which is that all parties are equally to blame.

The French president chose a historically sensitive moment on which to pivot his country's policy around, the anniversary of the notorious occasion in July 1944 when the Vichy police rounded up 13,000 mainly refugee Jews and deported them to German death camps. This memory is especially painful in France, because it is an affront to that country's self-image as the home of the rights of man, and as a safe haven for refugees from oppression abroad. In his speech to commemorate the event, Chirac made an implicit analogy between it and the fall of the safe havens in Bosnia, by comparing the attitude of "the Western democracies" toward Bosnia to that of Chamberlain and Daladier in 1938.

Chirac's historical allusion unfortunately fails to take account of the true moral culpability of Western policy toward Bosnia. However cowardly and foolish the protagonists of the Munich conference may seem in retrospect, they had not actually witnessed the fullness

BLAISE Pascal's 382nd *Pensée* goes as follows: "When everyone is headed toward collapse at the same time, no one appears to be going there. However, if one person stops, he will show up, like a fixed point, how the others are being carried away." Jacques Chirac seems to have had the seventeenth-century philosopher's advice in mind when he started talking tough about Bosnia. The ultimata he delivered to Britain and the United States—that they should either send reinforcements to recapture the fallen safe havens, or get out of Bosnia altogether—were clearly intended to make France into just such a fixed point, around which everyone else was to be shown up in disarray. However, while the venality and confusion of France's allies—especially Britain—may not be in

Mr. Laughland is the author of The Death of Politics: France under Mitterrand.

of Nazi aggression at the moment when they signed their useless pact with Hitler. Furthermore, Germany was, by any standard, a redoubtable enemy. Western appeasement of Serbia, by contrast, has been pursued in full knowledge of that country's aims and viciousness, and in spite of the fact that it is, relatively speaking, a tin-pot dictatorship.

Thus, while Chirac was ready to atone for sins committed over fifty years ago by men who are now dead, his words glossed over the specific role his own lieutenants have played in deciding and executing the policy that has ended in the betrayal of the Muslims in the safe havens. The most important of these lieutenants is his prime minister, Alain Juppé. Made foreign minister in the Balladur government in the spring of 1993, Juppé effected a seamless transition from the policies pursued by his Socialist predecessor. Juppé has always been one of the most implacable opponents of lifting the arms embargo against the Bosnians. In May 1994, for instance, he advanced the widespread but surreal argument that lifting the arms embargo would escalate the conflict and "derail peace," "a peace that I would not necessarily characterize as just, but one that can be balanced and stable." But if the search for "stability" at the expense of justice is morally outrageous by itself, one can only despair when it is cussedly pursued even after it has spectacularly failed on its own terms, as it had done by then for years.

This, however, was French policy. In close alliance with Britain, France allowed Serb territorial conquests and ethnic cleansing to take place, while salving her conscience with the high-profile use of "humanitarian aid" and the constant chimera of future negotiations. Moreover, not only did French and British even-handedness by definition favor the aggressor over the victim (for it always entailed readiness to talk to both sides), but London and Paris also frequently presented the Bosnians themselves as the principal obstacle to peace. Throughout 1994, for instance, Juppé repeatedly attacked the United States for refusing to pressure the Bosnians to accept the partition of their country. One would have thought it difficult to make Warren Christopher look hawkish, but as the secretary of state commented at the time, "Forcing a settlement on the aggrieved party requires a very strange moral calculus."

Before taking office, Jacques Chirac

never expressed any hostility to any of these policies. He has certainly not questioned the role of the man who is now his prime minister. On the contrary, has tried to present his country as blameless, and seems more interested in peace of mind than in peace itself. "France stands alone," he declared after failing to secure British or American support for reinforcements. But blaming other people has been the centerpiece of French and British policy ever since the start of the Yugoslav war. The Germans, Croats, Slovenes, Bosnians, and Americans have all repeatedly been blamed for this or that. Everyone, indeed, has been blamed except the Serbs.

Yet what is most striking about French- and British-led European policy in Bosnia is not the failure to make moral judgments, though this remains staggering. Only this week, the Dutch UN commander was to be seen enjoying a celebratory drink with the Bosnian Serb commander, General Mladic, the very man who had just sacked the town, organized the ethnic cleansing, and

taken the Dutch troops hostage. It is more the failure to make political judgments that shocks. France in particular, and Europe in general, show no sign of understanding that their de facto exoneration of the Serbs has prolonged and worsened the fighting—and ensured a Russian presence on the Adriatic Coast into the bargain. In this context, the decision taken by the European Union just before the attack on Srebrenica finally to sign a full trade accord with Russia—the one which was suspended in January because of the Chechen war, and which is presumably deemed acceptable now that the situation there has been normalized—must surely have sent a very clear signal to the Serbs: that gruesome oppression pays dividends. The more violent you are, the more the Western Europeans are determined to parley with you. Especially if the French president's stand is the prelude to withdrawal, it will take a good deal more than the odd tub-thumping speech from him to efface that message from the Europeans' copy-book. □

Affirmative Inaction

RAMESH PONNURU

WASHINGTON, D.C.
IF WE oppose set-asides and quotas," the memo began, "we must be willing to support policies that will achieve equal opportunity for all, as opportunity has not been equal and is not currently equal for blacks, women, and others." No, the memo wasn't part of the Clinton Administration's internal review of affirmative action. Representative Nancy Johnson (Conn.) sent it to her Republican colleagues, whom she urged to adopt a "clear, positive message on affirmative action." Specifically, she wanted them "to offer women significant opportunities to compete in sports"; to let universities and employers take race and sex into account; to treat "evidence of affirmative hiring processes" as "presumptive evidence of non-discrimination, encouraging employers to develop these processes"; and to favor "socially and economically disadvantaged contractors plus women-owned companies" in federal contracting. Her conclusion: "Just as quotas are bad, so outlawing any con-

sideration of difference is wrong." In other words, scrap preferences—but keep preferences.

It's not a very inspiring battle-cry. Mrs. Johnson has at times seemed fearful that even Bill Clinton would go too far in criticizing preferences: she later issued the memo, slightly altered, as a press release directed at him ("Johnson Urges President to Support Affirmative Action Policies That Will Achieve Equal Opportunity for All"). Since her memo reflects the thinking of many liberal Republicans, it may prove difficult to keep them on board for an affirmative-action rollback. Indeed, the problem is not only Republican liberals: the party as a whole has shown little enthusiasm for moving toward a race-neutral legal regime.

Scrapping affirmative action wasn't supposed to be this hard. Just three months ago, the conventional wisdom held that it was about to crumble. The Congress started promisingly by killing a minority tax break; William Kristol lauded it for "opening the entire, rusted arsenal of federal 'affirmative action' provisions to real, meaningful debate at

Mr. Ponnuru is NR's national reporter.

last." Most of the Republican presidential candidates called for major reform. So did candidate Clinton. The California Civil Rights Initiative, designed to ban racial and sexual preferences in state hiring, contracting, and university admissions, seemed unstoppable, and sure to keep the issue in the spotlight through November 1996. Now Clinton is reaffirming the status quo, Republicans are addressing the issue tepidly if at all, the California campaign is having trouble raising funds, and the "meaningful debate" is stalled.

Getting the 700,000 valid signatures necessary for the CCRI to qualify for the ballot will take roughly \$1 million. Large Republican donors have not been opening their pocketbooks fast enough to meet that goal. The recent appointment of San Diego businessman Darrell Issa as co-chairman of the campaign may improve the situation. But national Republican leaders have largely failed to respond to requests for help. When Glynn Custred, one of the two academics who proposed the CCRI, visited Washington, D.C., in April to garner support, officials at the Republican National Committee stood him up. Lamar Alexander and Pete Wilson quickly endorsed the measure—the latter even signing a fund-raising letter for it—but other Republican presidential candidates have dragged their feet. Wilson's support has brought some disadvantages: by persuading the University of California Board of Regents to abandon racial preferences, he has removed some of the urgency of passing the CCRI. And the initiative has become so associated with his presidential bid that some conservative figures now appear unwilling to aid it.

ACTIVISTS in Washington have also had reason to doubt the commitment of Republicans. Repeated delays in the introduction of a bill by Bob Dole and Charles Canady to stop mandating preferences in federal hiring, contracting, and program administration have exasperated them. (Dole now promises to introduce it in late July.) A narrower proposal by Phil Gramm to end some federal set-asides by cutting off appropriations for them failed in the Senate thanks to 19 Republican defections. Not a single senator joined Gramm in speaking for the proposal during two hours of debate.

Clint Bolick of the Institute for Justice, who coordinates conservative ef-

forts on preferences, calls Canady "a congressional hero . . . both a solid rock and a moving force." Hearings before Canady's subcommittee, however, have disconcerted preference opponents. When preference supporters make a foolish or offensive comment, nobody calls them on it. When Democrats verbally abuse witnesses, Republicans don't fight back. Barbara Ledeen of the Independent Women's Forum still fumes recalling her testimony in April: at one point every Republican congressman but Canady left, while all the Democrats stayed. Republicans have been more effective in recent hearings, but the difference in intensity persists.

The Republicans' lack of focus on affirmative action results partly from leg-



islators having their hands full with issues—like the budget, Medicare, and welfare reform—that have been deemed more important. In addition, congressmen are unfamiliar with the issue and reluctant to confront it. Democrats see preferences as a bread-and-butter issue politically, while Republicans merely have a mild preference against preferences. And as one staffer explains, "It's no fun . . . being called racist, being compared to Hitler. There are a lot of weak knees."

Some Republicans fear that attacking affirmative action could endanger an imminent breakthrough in black support for the party. David Bositis, who studies minority politics at the Joint Center for Political and Economic Studies, pours cold water on the notion that a breakthrough is around the corner, and suggests that affirmative action would not necessarily prevent one anyway. Blacks willing to listen to what Re-

publicans have to say, he contends, "would be turned off if it were perceived that the Republicans were approaching this as a wedge issue," but not if they "were going on principle." Moreover, at least one-third of black voters have long been skeptical of affirmative action.

Concern over the black vote has nonetheless led Republicans, including Newt Gingrich and Bob Dole, to seek a "positive" message to complement opposition to racial preferences. They want to link repeal to "empowerment" measures like school choice and enterprise zones, a tactic with undoubted appeal. Others fear, however, that this tactic both makes empowerment seem a crass, opportunistic ploy to appease blacks and concedes that abolishing racial preferences is a step for which Republicans should apologize. "Colorblindness is so good in itself that you shouldn't have to link it with anything," says John Miller, vice president of the Center for Equal Opportunity. If Republicans want to win black votes, Bolick says, "The key thing is a Republican presidential candidate who is willing to campaign in black churches, not a cobbled-together legislative package."

Miller also complains that nobody is attacking "the worst violations of colorblindness, the ones that have made the issue": preferences in college admissions and in the private sector. Republicans are not proposing to change the legal rules that push the private sector toward quotas (e.g., treating employment practices that have a statistically "disparate impact" as discriminatory). Those rules were codified in the Civil Rights Act of 1991 with the support of most Republicans, many of them still on the Hill. One staffer notes, "To require them to change their votes would kill this thing coming out of the gates." It would also draw opposition from big business, which has a large stake in current policies.

Sluggishness on preferences now may make the issue loom larger in 1996—an effect some Republican politicians will welcome. But proponents of colorblindness fear that race relations will deteriorate as long as preferences survive, creating opportunities for demagogues of all colors. They want to eliminate preferences now. But first they will have to overcome what Representative Johnson calls "the proud history of Republicans in creating and using affirmative action." □

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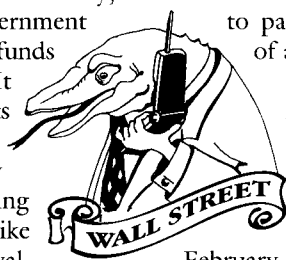
RANDOM WALK

REMEMBER back, oh, a year or two ago, when the political class, propelled by its powerful mixture of self-righteousness and envy, demanded immediate government action to stop the hedge funds from taking over the world? It wasn't just the usual suspects sounding off—Nick Brady, the Secretary of the Treasury under Bush, was demanding that George Soros and his like be stopped from setting the values of currencies.

Well of course the hedge-fund managers wish they had that power. But they don't. Mr. Market, who got pretty irritated with their hubris at the beginning of last year, took them into a back alley and beat them to a pulp with his lead-weighted copy of *Technical Analysis of Stock Trends*. According to the statisticians at Managed Account Reports, only 27 of the 432 hedge funds that MAR tracks managed even to match the S&P 500 index, which was up about 18 per cent in the first six months of this year. That means 93 per cent underperformed—not too impressive for people who are paid 1 to 2 per cent fees on the billions under their management, along with 20 per cent of the profits. The “global macro” managers of the sort who brought down John Major's pound suffered a median loss of .71 per cent. So the evil geniuses, who according to the French government are “financial AIDS,” turn out to be just a bunch of boys and girls riding a trendline in an up market. Brady is back on the tennis court, where he belongs.

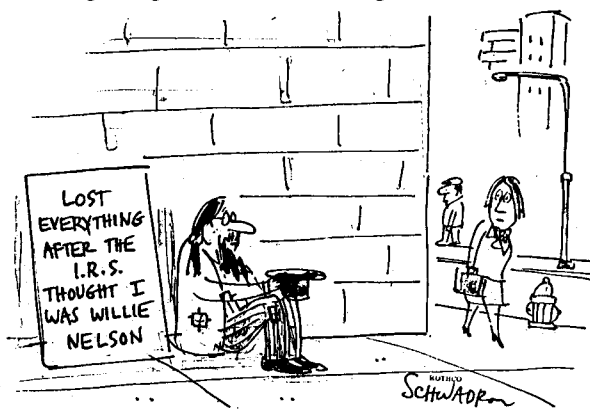
■ Early this February, I was telling my friends that the best one-way bet I could think of was a long position in defaulted international bank debt of the old Soviet Vnesheconombank. I have to say that the response tended to the distant stare and distracted nod. My reasoning at the time was that even the apparatchiks and the Communists, who were all in favor of screw-

ing the foreign equity investor, would want to make a deal to get routine access to the world banking system. And the Russians have plenty of money to pay for the first installments of a restructuring.



As you might guess from my having mentioned it, the V-Bank play worked pretty well. From 21 cents on the dollar around the first week of February, dollar V-Bank paper rallied up 34 by mid June. Then came a meeting of the bank creditors' group, known as the London Club, which naturally met in Frankfurt. At the meeting, the Russian negotiators loudly informed the bankers that they would not accept any term shorter than 25 years on the restructured paper. The bankers glared, as only Deutsche Bank people can glare, and emerging-market traders obligingly took the price of V-Bank paper back down to 28 and change.

Don't worry, folks, it was all *pour la galerie*. Just one tipoff—I understand that the old Vnesheconombank people have been buying the Russian debt through the usual cutouts in Austria and Switzerland since the decline. But market manipulation wasn't the only, or even (this time) the primary, reason for the Russian intransigence. You see, the negotiations with the Paris Club of official creditors of the old Soviet Union come up next month, and the governments would insist on getting terms at least as good as the banks. To get a good deal from the governments,



the Russians had to show they would be tough on the banks as well. The London Club negotiations resume around November, and that deal, once agreed to by the negotiators, has a very good chance of closing by next spring. If you figure Russia should pay the same interest rate that Bulgaria does, dollar V-Bank paper should go to the mid 40s by the end of the first quarter.

■ It's August again, so naturally one's mind turns to Japanese disasters. Sorry, am I being insensitive? I wasn't thinking about plutonium implosions, but banking-system implosions. By now, the estimates for the total bad debts held by the banks range from \$450 billion to over \$700 billion. That is several times the size of the American S&L disaster. I'm not sure that this was the dirigiste Japan Inc. model that the Robert Reichs of the world had in mind for us, but it is reality. Anyway, the talk on the Street is that the Ministry of Finance is going to let one or two banks fail, so as to create just enough of a panic that the Japanese public will go along with a government-sponsored bailout. Sort of economic fine-tuning with a howitzer, it would seem.

I did get two of my more clever friends in the MOF-watching community, Marshall Auerback, who runs Pacific Advisory in London, and Dan Gressil, a monetarist who is the managing partner of the Teleos fund in New York, to weigh in with their calls.

“They can either bail out the system or let it be deflated into a heap of rubble,” says Marshall. “Blow up two banks to change public opinion? Yes, it's probably appropriate on the fiftieth anniversary of the bombs. They could do it much more simply by just buying dollars until the rate hits 110 yen. That would accomplish the same reflationary end.”

Dan had his scenario ready. “A Japanese bank failure would lead to a huge rally in the United States. The Nikkei would go to 30,000 [from 16,500]. Everybody would sell the JGB [the Japanese T-bond], buy dollars, and buy the stocks. Reflation would be here.”

Maybe. In the old days, remember, bank failures tended to lead to deflationary depressions. But Japan has already had four years of contraction, so Dan could be right. —GEKKO

God and Man in Court

Judicial conservatives all agree that the Constitution must be interpreted in the light of its Framers' intentions. But what were those intentions as regards natural law?

LINO A. GRAGLIA

HARRY Jaffa has long engaged in a campaign of vilification against Robert Bork and William Rehnquist, a campaign I consider both sad and shabby. It is sad because he is attacking people who are on my and, he says, his side on the basic issue of constitutional law—the issue of the proper role of the Supreme Court in our system of government. One must expect attacks on Bork and Rehnquist from Ronald Dworkin, Bruce Ackerman, and Larry Tribe, and one can derive satisfaction from refuting them. But Jaffa is a hard-core political conservative; he was an advisor to Senator Barry Goldwater at a time when the name Goldwater was a liberal epithet. Indeed, he claims to be responsible for the famous slogan about extremism in defense of liberty being no vice, a stroke of genius that surely cost Goldwater whatever slim chance he ever had of winning the election. More important for present purposes, he is also, he tells us, a staunch foe of the judicial activism that has served to make the Supreme Court the enacting arm of the ACLU's political agenda.

If Jaffa is opposed to judicial activism, why does he devote his time and energy to reviling its two most prominent and effective opponents in the past half-century—excepting possibly only Learned Hand and the newer arrivals, Justices Scalia and Thomas? How is the public interest served by that? And reviled them he has. His cam-

paign against them has been shabby because he has attacked them not as a friendly critic or a disinterested scholar but personally, bitterly, and arrogantly. He has written that Bork “no doubt in his own mind . . . has taken on something of the status of a martyred saint of conservatism,” a statement for which he has not the slightest basis.



Senator Hatch's support of Bork, Jaffa says, has “the tone of triumphant martyrology.” “Surely hyperbole can go no further,” he sneers, than for Senator Hatch to “compare . . . Bork's prose to Churchill's,” something that Senator Hatch has not done. (Hatch's statement was that Bork, like Churchill, is one of the rare “great scholars or writers of a talent to explain momentous events.”) Bork, Jaffa says, engages in “the most shameless expurgating and bowdlerizing of the Constitution's text.” Jaffa substitutes arrogance for argument when he says: “It is embarrassing to have to instruct Judge Bork in . . . the simplest elements of the political philosophy of the American Founding.” Rehnquist is not the subject of his

paper, but Jaffa cannot resist a passing contemptuous reference to him as “that fountain of authority.”

What sins can Bork and Rehnquist have possibly committed to deserve such contempt? Which of Bork's many decisions as a Court of Appeals judge or of Rehnquist's many more on the Supreme Court does Jaffa even disagree with? As far as I can tell, there are none. I could fault Bork and Rehnquist—as well as Scalia, Thomas, and even Hand—as too activist themselves, too ready to hold unconstitutional laws that are not, but that is not Jaffa's complaint. How, then, have Bork and Rehnquist offended him? It happens that Harry Jaffa's principal contribution to constitutional scholarship is his peculiar notion, following Abraham Lincoln, that the Constitution incorporates the Declaration of Independence. He considers this the most

Mr. Graglia is A. Dalton Cross Professor of Law at the University of Texas. This article is adapted from a paper responding to “Storm over the Constitution: Jaffa Answers Bork,” a paper delivered by Mr. Jaffa at a symposium on natural law sponsored by the Southern California Interdisciplinary Law Journal. The complete symposium record is published by the Journal in its Spring 1995 issue.

crucial and incisive insight in the history of American constitutional theory, and is enraged that Bork and Rehnquist have failed to appreciate it.

Jaffa agrees with Bork, he says, that, “the notion that the Justices of the Supreme Court may in any way alter or amend the law of the Constitution by importing into it ideas or principles drawn from outside the Constitution itself is utterly abhorrent to sound jurisprudence. Like Judge Bork, I am devoted to the principle that the Justices of the Supreme Court are bound unqualifiedly by the positive law of the Constitution, and that the positive law of the Constitution is to be understood in terms of the original intent of those who framed it and those who ratified it.” What Bork fails to understand, according to Jaffa, is that “natural-law principles are present *within* the Constitution, as elements of the *positive law* of the Constitution.” Thus, Jaffa insists that he is, like Bork, a positivist—a proponent of the view that the only function of judges is to enforce enacted law—despite being a believer in natural law. In fact, he is chasing an oxymoron, “positive natural law.”

It is very important, Jaffa agrees with Bork, that judges stick to enforcing positive law in order to avoid the danger of having unelected officials substitute their policy views for the views of the elected representatives of the people. This danger is avoided, however, Jaffa apparently thinks, when the positive law (here, the Constitution) simply enacts the natural law even if it does so without codifying or otherwise specifying the content of that “law.” Natural law then becomes positive law, and a judge who decides cases on the basis of his understanding of the principles of natural law is simply performing the ordinary judicial function of interpreting and applying law.

The difficulty with this, of course, is that “natural law” would not become any less uncertain, debatable, and a matter of personal perspective if the Constitution authorized judges to discover and enforce it. The practical results of such authority, Bork correctly points out, would be not to lessen but to legitimize the role the Supreme Court has assumed even without such authority, the role of our supreme lawmaker in violation of the principles of separation of powers, representative self-government, and federalism that are the essence of the system of government established by the Constitution.

THE Constitution incorporates natural law because, according to Jaffa, it incorporates the Declaration of Independence. The Declaration, he thinks, constitutes “a compressed summary” and “perfection” of natural law, and the embodiment of “the ethical core of the Judaeo-Christian tradition” as well. The Declaration, however, consists largely of a lengthy indictment of King George III. It is hardly the sort of thing you would expect to find in a nation’s constitution. What it is, of course, is a document meant to justify revolution—that is, illegal action. Having no human law to rely on—being in defiance of authority—revolutionaries necessarily come to rely on the law of God, who, happily, rarely issues a protest.

The Constitution, however—a framework of government constructed by law-abiding men to be ratified by the people—did not require supernatural support for its validity.

The Constitution makes no mention of the Declaration of Independence, and Jaffa has not produced a single statement by anyone at the Constitutional Convention or during the ratification debates indicating an intention or understanding that the Declaration was incorporated and thereby made judge-enforceable law. Jaffa offers only two items of evidence in support of his implausible theory. First, his theory or something like it was asserted in the Republican Party platform of 1860, on which Abraham Lincoln ran for President. That platform, however, was another document created in an attempt to justify a non-legal or extra-legal violent action, the North’s waging war on the South to prevent its withdrawal from the Union.

The only evidence, if such it may be called, offered by Jaffa from near the founding era is a suggestion made by Madison in 1825 in response to a request by Jefferson for

Having no human law to rely on—being in defiance of authority—revolutionaries necessarily come to rely on the law of God, who, happily, rarely issues a protest.

recommended materials for the law faculty at the newly established University of Virginia. Jaffa states: “Madison recommended, and Jefferson agreed, that of the ‘best guides’ to ‘the distinctive principles of the government of our own state and that of the United States,’ the *first* is, ‘The Declaration of Independence, as the fundamental act of Union of the States.’” This is, to say the least, a far cry from a statement that the Declaration is incorporated in the Constitution. In fact, Charles Cooper has recently shown that Madison actually *denied* that the Declaration could be used to interpret the Constitution.

Assume, however, that the Declaration *was* meant to be incorporated in the Constitution; what effect would that have on constitutional interpretation? Jaffa says the Declaration is a summary and perfection of natural law as well as an embodiment of the core of the Judaeo-Christian tradition. All this is found, apparently, in a single sentence of the Declaration, the statement of truths held to be self-evident, “that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the Pursuit of Happiness—That to secure these Rights, Governments are instituted among Men, deriving their just powers from the Consent of the Governed.” This is the only part of the Declaration quoted in the 1860 Republican platform.

Although he refers constantly to the principles of natural law, Jaffa never undertakes to list these principles or even define or describe them except by reference to the few phrases quoted above. To a lawyer, at least, this is highly unsatisfactory. If by law Jaffa means lawyers’ law, as he seems to—law enforceable against individuals by the power of the state—his principles must meet the minimum requirements of such law. Legal rules must be stated in such form as to provide meaningful guidance to those to whom they apply and limit the discretion of those who must apply them. Nothing could be clearer, it seems to me, than that

the quoted phrases from the Declaration do not do this. The last thing an opponent of judicial activism should want, I would think, is to authorize a Brennan, Douglas, or Blackmun to determine the content of "certain unalienable rights." Of course, the Justices have already undertaken to do this on their own, discovering such new "fundamental" constitutional rights as a right of "privacy," which somehow includes a right to an abortion.

THAT incorporating the Declaration and therefore "natural law" into the Constitution is a formula for judicial activism seems so clear to me that I have trouble understanding how it can be less than clear to anyone else. This leads me to conclude that what we have here is a failure of communication. Nowhere more than in discussions of natural law does dispute seem to turn purely on semantics, on different understandings of the meaning of terms. The core of the problem, it seems to me, is the insistence of proponents of "natural law" on stating prescriptions as descriptions, on elevating their beliefs as to what ought to be—on which there is often little disagreement—into assertions as to what is.

Jaffa's abuse of language fills his writings with statements that are either silly or untrue when language is used in its ordinary sense. He asks, for example, "where did the people [of the American colonies] get the authority . . . to separate themselves from Great Britain and then to institute new governments for themselves?" It is a meaningless question because, objectively viewed, no issue of authority was involved. The American colonists were able to separate from Great Britain not because they had the "authority" to do so—they were revolting against established authority—but simply because they had the power to do so, the capability of resisting British arms.

Justice Holmes said that nothing is the source of more confusion in law than misuse of the word "right"; natural-law arguments often maximize and exploit this confusion. For example, Jaffa says that people have the right to overthrow their government, but only if it is a government of a certain kind. But if what is meant is a legal right—and it is only this connotation that gives the statement its apparent force—then the statement is obviously self-contradictory: you cannot have a legal right to act illegally. On the other hand, if Jaffa means only a "moral right"—that is, an interest that he thinks should be protected—he is merely asserting his opinion that it is good that certain governments be overthrown. The word "right" seeks to give force to a statement of opinion by making it seem a statement of fact.

Similarly, Jaffa states that a society cannot "enact *ex post facto* laws." But society does so all the time; just last year, for example, Congress passed an *ex post facto* tax law. When Jaffa says "cannot," he merely means "should not," as he shows by quickly adding that if a society does enact such a law—admitting that it can—it is

acting "inconsistently with the doctrine of unalienable rights." But by actually enacting and enforcing such laws, a society effectively demonstrates that there is no such right in that society. If human history shows anything, it shows that what we could wish were unalienable rights are in reality all too alienable.

I MUST admit to feeling, however, that my demonstrating that Jaffa's statements are false is somehow beside the point. I can be sure at least that it will have absolutely no effect on Jaffa; he has been doing his thing for much too long to be stopped now by logic or fact. If his treatment of Bork and Rehnquist (and others) is any indication, he will consider it a sufficient and appropriate response to issue a slanderous *ad hominem* attack. Thomas Pangle has noted that Jaffa "seems incapable of arguing issues in moral and political theory without labeling his opponents and their views immoral."

It makes no sense to formulate rational responses to arguments to which rationality does not apply, as it does not to Jaffa's metaphysics. His call for judging on the basis of "the laws of nature and of nature's God" is obviously an invitation to participate, not in policy analysis or constitutional interpretation, but in theological or philosophical speculation. The source of his displeasure with Bork and Rehnquist is that they do not wish to engage in this exercise as judges—that, claiming authority and professional knowledge only as to human law, they must decline Jaffa's invitation to adjudicate on the basis of any other.

Jaffa's statement, for example, that "the goodness of the Constitution is rooted in the goodness of the created universe" is not a statement of fact, testable and falsifiable, but an expression of mystical feeling. If it were taken as meant to convey meaning, one would have to ask whether "goodness" and perhaps even "created" are words that can properly be applied to the universe—much of which strikes me, if such a description is appropriate, as rather brutal.

Along this same line, Jaffa uses as an epigraph for one of his writings a quotation from Thomas Aquinas, "Good and being are convertible terms." Believers and skeptics regarding natural-law thinking can probably be distinguished by



their different reactions to such a pronouncement. Believers think some savant has announced an important discovery; skeptics will realize that another deep thinker has become so fascinated by the magic of language that he has forgotten its function and limits.

My difficulty with Jaffa is not that he is interested in discussing such things as "the goodness of the created universe" but that he wants to make it sound as if he is discussing law. He is not a professional theologian or moral philosopher, but a political scientist who claims to instruct on constitutional law. While metaphysics and theology are beyond my ken, constitutional law is my field of professional interest. I find it necessary to point out, therefore, that it is not constitutional law—or any form of human law, law created and enforced by government officials—that he is discussing. Robert Bork and William Rehnquist are continually subjected to his spiteful attacks only because they rightly believe that "natural law," even if supposedly derived from the Declaration of Independence, is not a proper basis for judicial invalidation of policy choices made by the people's elected representatives. □

RESPONSE

Graglia's Quarrel with God

HARRY JAFFA

PROFESSOR Graglia denounces my critiques of Judge Robert Bork and Chief Justice William Rehnquist because, as a "hard-core political conservative" I should not have called into question the authority of these high priests of judicial conservatism.

I do believe the quest for consensus in a major political party justifies many concessions for the sake of larger goals. I supported Judge Bork's nomination and contributed money to his cause. Even today I believe he would have made a better Justice than Kennedy, Souter, or O'Connor. But Rehnquist and Bork have identified themselves with a jurisprudence of original intent. I share with them the conviction that only such a jurisprudence can counteract the liberal judicial activism that like a cancer is eating away the substance of our Constitution. I have, however, proved—beyond I think a reasonable doubt—that what *they* call original intent is *not* that of those who framed and ratified the Constitution. They identify original intent—as does Graglia—with a legal positivism that is completely alien to the thought of the founding generation.

While I may agree with what Bork or Rehnquist says (or decides) concerning particular cases, I do not believe that legal positivism, grounded in moral relativism and philosophical nihilism, can effectively counteract that very same legal positivism when it appears in the form of liberal judicial activism. Alienation from the genuine principles of the American Founding, whether by those calling themselves

conservatives or by those calling themselves liberals, can undermine fatally, not only constitutional law, but the loyalty and conviction of the citizens themselves, upon which everything else depends.

The core of Graglia's disagreement with me concerns the status of the principles of the Declaration of Independence in their relationship to the Constitution. These are the principles of the natural law, as the founding generation understood them. Graglia describes the Declaration as "a lengthy indictment of King George III." Actually, in this indictment nearly every element of American constitutionalism is presented, in the denunciation of its violation: e.g., rendering "the Military independent of and superior to the Civil Power," "depriving us, in many cases, of the Benefits of Trial by Jury," "imposing Taxes on us without Consent," etc. The Declaration is a very textbook of constitutionalism. Graglia should read it some time.

Graglia reserves his greatest derision for my statement that "the goodness of the Constitution is rooted in the goodness of the created universe." Nothing is more revealing than his doubt "whether 'goodness' and perhaps even 'created' are words that can properly be applied to the universe." Let me introduce him to the first chapter of Genesis, which begins, "In the beginning God created the heavens and the earth," and ends, "And God saw everything that he had made, and behold, it was very good." For most of us, "goodness" and "created" are understood primarily and essentially, as well as properly, as applied to the universe. For most of us, all other meanings of "goodness" and "created" are derivative from this. Within the context of Western civilization, and certainly of American civilization, the meaning of these words is drawn from the Bible.

The very first sentence of the Declaration of Independence appeals to "the laws of nature and of nature's God" as justification of our separation from Great Britain. Everything that follows is an elucidation of what is meant by this appeal. The violations charged to the British Crown and Parliament are violations not merely of positive law, but of those provisions of positive law that were regarded as implementations of the natural law. In the *Summary View of the Rights of British America* of 1774—whose composition led to his selection by the Continental Congress as draftsman of the Declaration of Independence—Jefferson told the King that the colonists "shall [not] be taxed by any power on earth, but our own. The God who gave us life, gave us liberty at the same time: the hand of force may destroy, but cannot disjoin them." Certainly no more unconditional commitment to the idea of a non-arbitrary standard of political right is imaginable, a standard in nature to which positive law is subject.

GRAGLIA declares that my "call for judging on the basis of 'the laws of nature and of nature's God' is obviously an invitation to participate, not in policy analysis or constitutional interpretation, but in theological or philosophical speculation."

But let us consider what is implied in knowing the laws of nature. I will here present a simplified course in Aristotle. Let us call it "Aristotle for lawyers."

All human rationality derives from the common noun.

Mr. Jaffa is a senior fellow at the Claremont Institute.

"Dog" is a common noun. "Fido" is a proper noun. When we say "Fido" we mean a dog of that name. But Fido is identified as a dog before he is identified as Fido. It is the common noun that is the foundation of all thinking. It is a universal, abstracted from the particulars of sensible reality. If I say, "This is a chair," I am saying, by necessary implication, that there are an infinite number of possible chairs, each different from this one. Since it refers to any possible chair, the common noun "chair" can itself have no color,

It is the teaching of the Declaration of Independence that there is no such distinction between man and man as there is between bees. Nature does not mark out who is to rule, and who is to be ruled.

form, or size. If we imagine a chair having any sensible attribute, then we are imagining a particular chair.

The great proposition that all men are created equal rests upon the same metaphysical foundation as any common noun. For the same reason that the idea of the chair can have no color, the idea of man can have no color. This is the ultimate source of the doctrine that the Constitution is, or of right ought to be, color blind.

Other creatures than man—such as bees and ants—live a communal life, in which there are complex divisions of labor and elaborate relationships of ruling and being ruled. The queen bee is not elected, but is marked out by nature to perform the functions that she does perform. And the distinction between worker and drone is also marked by nature. There can be no justice or injustice in the allocation of work and food within the bee hive.

It is the teaching of the Declaration of Independence—which Graglia thinks is a mere effusion of religious mysticism—that there is no such distinction between man and man as there is between bees. Nature does not mark out who is to rule, and who is to be ruled.

Shortly before his death, Jefferson wrote an address for a celebration of the fiftieth anniversary of the Glorious Fourth, in which he expressed the doctrine of the Declaration as the "palpable truth, that the mass of mankind has not been born with saddles on their backs, nor a favored few, booted and spurred, ready to ride them . . ." No more succinct summary is possible of how the American Revolution broke with the *ancien régime* of modern Europe, as well as of the ancient world. It is not therefore mysticism, but the voice of reason itself that says the law of nature and of nature's God is on the side of equal rights, self-government, and the rule of law.

Because no man has a natural right to rule another, constitutional government is a system of majority rule and minority rights. In Jefferson's words, "the minority has equal rights, which equal laws must protect, and to violate which would be oppression." There is no lawful power in the majority to do anything that would jeopardize the lawful rights of the minority, whether of speech, press, religion, or property. And this is neither more nor less than what is

meant by the natural-law foundation of the Constitution. Why should the understanding of these general principles, which guided the Framers and ratifiers of our Constitution, not guide judges in construing that same Constitution? How can understanding the theory of limited government and the rule of law incite judges to engage in judicial activism in disregard of the rule of law?

Graglia writes that: "The Constitution makes no mention of the Declaration of Independence . . ." The Constitution, however, ends as follows: "Done in convention . . . the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven and of the independence of the United States of America the twelfth . . ." Article V of the Constitution refers to "the year one thousand eight hundred and eight." The Framers clearly had the option of not referring to Christianity, yet "the year of our Lord" does so. And the dual dating links the origin of Christianity with the origin of the independence of the United States. What the Gospels were to Christianity, the Declaration of Independence was to the *novus ordo seclorum*.

Graglia simply ignores what I have written about the relationship of the Preamble of the Constitution to the Declaration. Suffice it to say that the "one people" that separated from Great Britain in 1776 is the same one "people" that ordained and established the Constitution in 1789. The same laws of nature that entitled them to their separate and equal station entitled them to institute new government. It would have been merely redundant to have repeated that justification.

Graglia writes: "Jaffa offers only two items of evidence in support of his implausible theory. First, his theory or something like it was asserted in the Republican Party platform of 1860 . . ." Now we come to the very head and front of our differences. What Graglia calls *my* "implausible theory" is embodied, by his own account, in two documents, the Declaration of Independence, and the Republican Party platform of 1860. Here are the key resolutions from the latter document that, according to Graglia, violate all canons of legal reason.



"I object, Your Honor—there's something funny going on here."

2. That the maintenance of the principles promulgated in the Declaration of Independence and embodied in the Federal Constitution, "that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness, That, to secure these Rights, Governments are instituted among Men, deriving their just powers from the Consent of the Governed," is essential to the preservation of our republican institutions . . .

7. That the new dogma [viz., of *Dred Scott*] that the Constitution, of its own force, carries slavery into any or all of the Territories of the United States, is a dangerous political heresy, at variance with the explicit provisions of that instrument itself . . .

8. That the normal condition of all the territory of the United States is that of freedom; as our Republican fathers, when they had abolished slavery in all our national territory [viz., by the Northwest Ordinance], ordained [by the Fifth Amendment] that no person should be deprived of life, liberty, or property without due process of law, it becomes our duty . . . to maintain this provision of the Constitution against all attempts to violate it . . .

According to Graglia, Lincoln and the North undertook a "non-legal or extra-legal violent action" against the South. By calling the action of the elected government of the Union "non-legal or extra-legal," he implies that the action of the secessionists was legal. But unlike the American people who, in 1776, were not represented in the British Parliament, in 1861 the Southern states were fully represented in the United States Congress. Those states had freely ratified the Constitution of 1787. In so doing, they had ratified the lawfulness of elections conducted by the rules of that Constitution. What they called the right to secede meant nothing more or less than setting aside a constitutional election because they did not like the results. Whereas constitutional self-government entails looking only to future elections to reverse the outcomes of elections one does not like. Here is a practical application of that natural-law reasoning that Graglia denounces.

Why then did the South secede? The heart of the sectional conflict of the 1850s concerned the status of slavery in the territories. The South claimed, as a constitutional right, the right of citizens of the slave states to have

the same access to the territories, with their human property, as citizens of the free states had with their non-human property. With it they claimed, also as a constitutional right, a federal guarantee of the security of that property. This opinion of what the Constitution required had long been held in radical pro-slavery circles. These people believed that it had received final confirmation in 1857 in the opinion of Chief Justice Taney in the case of *Dred Scott*.

Taney himself had recognized that Negroes did in fact belong to "the human family," not to be treated as property. But, he said, the Framers and ratifiers of the Constitution did not, and he was bound by their opinions. But why was he bound by their opinions if they were so wrong about what was a human being? Taney, like Graglia, was a legal positivist, who believed the judge was bound by the positive law, *whatever it was*. In a Nazi regime that would mean enforcing the laws against Jews or anyone else whose racial inferiority did not qualify them for membership in the same species as the master race.

I RETURN to Graglia's accusation against me of "a campaign of vilification" against Judge Bork and Chief Justice Rehnquist. In that alleged campaign, I have repeatedly quoted Rehnquist's assertion that if a democratic society "adopts a constitution and incorporates in that constitution safeguards for individual liberty, these safeguards do indeed take on a generalized moral rightness or goodness. They assume a general social acceptance neither because of any intrinsic worth nor because of any unique origins in someone's idea of natural justice but instead simply because they have been incorporated in a constitution by the people."

In *Original Intent and the Framers of the Constitution* I have subjected this astonishing oracle to extended analysis. Suffice it for now to notice that, on Rehnquist's own premises, such constitutional safeguards of individual liberty as the free exercise of religion, freedom of speech and of the press, and trial by jury do not of themselves have

"any intrinsic worth." That is to say, they are not chosen because they possess goodness, but possess goodness simply because they are chosen. By Rehnquist's doctrine, the safeguards of slavery in the Constitution of 1787 possess the same claim to goodness as the safeguards of individual liberty. By this doctrine, if the law says that Negroes are chattels, then it is as morally good that they be bought and sold like animals, as that white men be secure in their persons and property. To point out that this is the logical and necessary consequence of Rehnquist's and Graglia's legal positivism may indeed be shocking. But it is not vilification to tell the truth, however unpleasant that truth may be. □



"Chief Justice Burger is here—with an order to desegregate by busing some folks up from hell."

NR West



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Voucher Wars

JOY DEE ANTHONY

IT'S BEEN almost two years since Proposition 174, a school voucher initiative, fell to defeat in California. But neither the issue nor the loss has been forgotten. Voucher enthusiasts have spent a half million dollars over the past 18 months conducting polls and focus groups to determine what went wrong—and to identify the best way to write a new initiative for next year's ballot.

According to Gene Ruffin, executive director of the San Diego-based American Education Reform Foundation, polls suggest that California voters most inclined to vote against vouchers fear two things especially: harm to the public school system and costs to the taxpayer. Over the next year, Ruffin and others will be working hard to convince the electorate that these fears are misplaced.

Even to the casual observer, California's public school system seems to have deteriorated beyond repair. In Los

Angeles, for instance, 44 per cent of enrollees do not graduate from high school and 60 per cent of those who do graduate are unable to read at the sixth grade level. Statewide, in recent national tests with 39 states participating, California public-school students tied for last place with those in Louisiana.

This isn't for lack of money. It is a measure of the spending priorities of the current system. A striking recent example: even while liberals in Sacramento were laughing at Anne McKinney, a Republican caucus consultant in the state legislature who warned of wasteful expenditure on classroom computer services, public school children were telling a *Los Angeles Times* forum that they had easy access to pornography through their schools' Internet connection.

Vouchers would reward good schools and bring accountability to bad schools—both public and private. The idea is to give parents the money that now flows directly to public schools. Parents who like their children's schools could keep their money there. Parents who don't would have an opportunity to send their money and their children elsewhere—including non-conventional schools that vouchers might make feasible, such as schools in the workplace.

Kevin Teasley, executive director of the failed '93 campaign, says the current campaign is "100 miles ahead" of where he was. Before the previous campaign even got started, the teachers' unions and former Superintendent of Public Instruction Bill Honig were able to tell their political consultants to count on \$17 million to defeat the voucher. Thus the first anti-voucher ads began during the '93 Super Bowl, at a time when the woefully under-funded pro-voucher campaign was still in the talking stages. And those ads, although dishonest, proved effective. In addition to stoking the public's anxiety about what vouchers would mean for public schools and the supposed burden they would place on taxpayers' pocket-books, anti-voucher forces claimed that witches, demons, and all manner of wackos would be running voucher-redeeming private schools.

Some of the biggest pro-voucher donations came too late in '93 to refute these charges. One was from John Walton, heir to the Wal-Mart chain, who has since—with Bill Oberndorff, a Bay area money manager—created the American Education Reform Foundation in San Diego to manage the new voucher effort. Walton has pledged either to raise or contribute \$20 million. Oberndorff has committed to raise \$10 million and contribute \$500,000. This combined war chest will exceed by a factor of ten the budget of the 1993 campaign—and double the amount that year spent by the California Teachers Association.

Using a phased-in approach, the current draft of the Walton initiative would require both a "schools test" and a means test to determine the order of student eligibility. Students in the worst-performing schools would qualify

(Continues on page West-4)

WEST WORLD

■ In a clear indication of the moral superiority of West Coast vice to East Coast vice, Portland-based skater Tonya Harding's agent has revealed that Harding—who you recall was complicit in a clubbing assault on rival skater Nancy Kerrigan a few years back—recently turned down a role offered her in an upcoming Woody Allen film because “Tonya didn’t like Woody Allen’s morals.”

■ Speaking of vice, motorist Rodney King was arrested again—seemingly for the zillionth time—on suspicion of assault with a deadly weapon and domestic violence. This time police recorded the arrest with their own video camera. When will a multi-strike law get this thug off the streets and out of the newspapers for good?

■ Two Jesses are making news in the West as we go to press. One-hundred-thirteen years after legend records him being shot in the back by Robert Ford, Jesse James's body has been exhumed in Kearney, Missouri, to determine whether legend has it right or whether Jesse lived on in Texas until 1951. If the latter, James certainly lived his life quietly. This would not have been possible for Jesse Jackson, who would have worn out Texas's ear in no time, as he is currently doing to California. Most recently, on July 20, Jackson appeared in full form—and wearing what appeared to be a pajama top—at a public meeting of the University of California Regents. The agenda was the future of race-based admissions and hiring policies in the UC system. All those who spoke at the meeting were held to a three-minute limit—all but one, that is. Mr. Jackson threatened civil disobedience—less than a month earlier he was threatening to lead a statewide strike—and was granted unlimited time to speak. In the end he took over 30 minutes, including a prayer and an invocation of Jesus as an affirmative-action booster. Actually, at less than an hour, we think the audience got off pretty light. In the end, the regents voted 14-10 for black conservative Regent Ward Connerly's proposals to roll back affirmative action policies in the UC system. Afterward, Jackson led angry students to a major San Francisco intersection where they sat down to block traffic and to chant, “We will go to jail tonight.” Probably to their great disappointment, they didn't.

■ Perhaps President Clinton couldn't reach Jesse Jackson when he needed a good rhyme for his speech in defense of continuing affirmative action. Thus the pitiful and embarrassing “mend it, but don't end it,” which puts us in mind of the President attempting Charlie Parker riffs on his saxophone. Or perhaps the President got the line from *Tonight Show* host Jay Leno, who has been hired to write jokes for him. In any case, our heartfelt advice to Mr. Clinton: next time, consult the rhyme master. (What better way to describe the man who gave us the classic, “I'm a tree-shaker, not a jelly-

maker.”) As Californians can attest, he's not that hard to find.

■ We've heard of mayors riding in Chinese New Year and other ethnic parades to garner votes, but San Francisco's Frank Jordan—who finds himself challenged by former Assembly Speaker Willie Brown—kicked-off his city's political season in a decidedly unique, and perhaps post-modern way. Surrounded by a crowd at the corner of Powell and Market Streets, he threw a quarter in the slot, stepped in, and . . . relieved himself, flushing afterwards and emerging to rousing applause. The occasion was the opening of the first of 20 state-of-the-art public pay toilets in the City by the Bay. Others who tried out this toilet extolled its handsome appearance, spaciousness (wheelchair accessible, of course), and automatic cleaning and disinfecting system. The French manufacturer, JC Decaux, hopes these “Euro-toilets” will catch on nationwide. All we know is, requests for “spare change” will take on a new moral urgency in the cities that bite.

■ California liberals like Congressman Vic Fazio and Senator Barbara Boxer are whining big time over military base closures in the state—most recently the closure of McClellan Air Force Base in Sacramento. Funny, but we remember when not that long ago they built their reputations sniping at the “Reagan military build-up.” In fact, cutting the military was the main theme of Boxer's career as a Bay Area congresswoman, and as recently as her 1992 Senate campaign against Bruce Herschensohn she was pushing a plan to reduce defense spending by an additional \$150 billion over what was then in the cards. She accused Herschensohn of being in a “time warp” for opposing further cuts. Now she must hope Californians will enter a time warp of their own when she runs for reelection in 1998.

■ We have previously noted that Ted Turner is the West's largest buffalo farmer, in addition to owning a media empire back east. But it takes more to satisfy some people than others. He worked himself up into a dither last month at a gathering in his honor in L.A. Under a banner that read “Unity in Diversity; All are One”—perhaps a Zen version of “E Pluribus Unum”—Turner attacked violence in movies, in-



cluding his own company's recent offering, *The Desperate Trail*: "It sucked. . . . We couldn't even watch the whole thing, Jane and I." But this was nothing compared to his anguish at not owning a broadcast network—"If I died tomorrow . . . Jane's going to have it engraved [on his tombstone]: 'He never got a major network.'" And the fact that CNN wasn't allowed to bid on coverage of the Olympics really sent him into a reverie: "Black, Jewish, Indian, Native Americans, we're just sucking air all the way around. . . . I feel like, oh, those Jewish people in Germany in 1942. I know exactly what it is to be rounded up and herded out and sent to the East somewhere, resettled." Perhaps on his way back east this time he should stop over in Palm Springs for a lengthy stay at the Betty Ford Clinic. In any case, by the end of the evening he was back to his more usual silly self, presenting a birthday cake to Jacques Cousteau and patting himself on the back: by decorating the cake "with two candles instead of 85," he said, "we're helping save the environment."

■ It is perhaps an understatement to say that California lags behind other western states like Nevada and Texas, which have recently liberalized their laws allowing the carrying of firearms. The big argument in California at the moment concerns the deregulation of pepper spray! As things stand, Californians have either to look at an instructional video, pass a test, or take an entire course sponsored by the Justice Department before buying this relatively harmless self-defense tool. Attorney General Dan Lungren and Assemblywoman Jackie Speier are backing a bill which would end this requirement, as well as a certification requirement for pepper-spray products sold in the state. The ACLU stands opposed, naturally. We are waiting for Diane Feinstein, Charlie Schumer, and their allies in Washington to announce urgent hearings to investigate the involvement of the National Cayenne Pepper Association—which recently sent out a fundraising letter referring to some law-enforcement officials as "Monterrey Jack Cheese-booted thugs"—in this attempt to deregulate a weapon which is clearly of no conceivable use for sportsmen and hunters.

■ An "Ecco Lesbo-Ecco Homo" festival in Santa Monica, California has become a major issue in the debate over NEA funding. The performance art center sponsoring the festival, Highways, recently received \$15,000 of federal tax moneys from the NEA. The festival includes a comedy act called "Not for Republicans," in which performance artist Marga Gomez addresses what the festival brochure calls "her favorite subjects: pain, regret, self pity, doom, and sex with Newt Gingrich's mom"; a performance whose purpose is described as "rallying all the dyke/faggot/black energy together to push the right wing into spiritual contortions"; and a dance performance which revolves around "censorship, promiscuity, dating, relationships, the trauma of HIV testing, eroticism, and the continued persecution by the conservative religious right." The assistant artistic director of Highways has been quoted as accusing critics of having "no sense of irony or humor." NEA defends itself weakly by insisting that its funding to Highways was in the form of general support, not spe-

cific support for the festival. Clintonite defenders of the NEA are undeterred in thinking they have the cultural high ground in this debate. Wherever the ground is, they better check their shoes.

■ Following up on an item in this section in our April 17 issue: Trial lawyer Michael Sattris of Bolinas, California has succeeded in getting an injunction from the Main County Superior Court against Department of Corrections plans to deny conjugal visits to murderers, violent sex offenders and child molesters. The organization on whose behalf Sattris filed his lawsuit is called "Pro-Family Advocates," which just goes to show you—as President Clinton regularly insists—that conservatives aren't alone in supporting family values.

■ Some time back, you might recall, Barbra Streisand generously donated her 22.5-acre Malibu estate, valued at \$15 million, to the Santa Monica Mountains Conservancy, a California State Agency. Last year, however, the Barbra Streisand Center for Conservancy Studies cost taxpayers \$300,000 while generating only \$60,000. Not only is the Center devoted to celebrating the environment at other people's expense, but now local residents have organized to protest the environmental threat it poses. They say that the Center causes traffic congestion, disrupts native wildlife, and pollutes the local watershed, calling it a "luxury operation." It turns out that Streisand used concrete and rock to rerout a stream that used to water the native vegetation—which she ripped out and replaced with vegetation for which there could never be enough natural water in the arid Ramirez Canyon. In fact, the non-native vegetation with which the melodic naturalist landscaped her little Shangrila requires \$22,000 worth of water per year. With this record it's a minor miracle that Babs hasn't been tapped for a high level EPA job in the Clinton administration.

■ The Claremont Institute is holding a dinner on October 20, at the Seven Oaks Country Club in Bakersfield, California. Vice President Dan Quayle will be the main speaker. Other speakers will include Bruce Herschensohn, Bill Rusher, and Pat Sajak. For reservations or further information, contact Nancy Padilla at (909) 621-6825.

■ A relatively new controversy in Western states concerns "bat houses"—cedar dwellings built to attract the traditionally offensive nocturnal mammals. Advocates note that bats eat up to 500 mosquitoes an hour, and place flyers at hardware stores urging consumers to "get in tune with your bats." Opponents warn that bats are second only to skunks as carriers of rabies. We will watch this burning issue carefully for further developments.

■ Now that famed "conceptual artist" Christo has finished wrapping the Reichstag building in Berlin with sheets of shiny, aluminum-coated polypropylene, rumors are that he has turned his attention to the Los Angeles County Courthouse, where he has expressed interest in wrapping the defense team's gall in sticking to its LAPD-conspiracy theory.

ANTHONY
(Continued from page West-1)

to receive the first vouchers. These vouchers would be worth 80 per cent of a student's "personal education cost" for redemption at a private school or 100 per cent of that cost for redemption at a public school. ("Personal education cost" is defined as "the average variable cost of edu-

cating a child in California plus the average per student State lottery fund allocation.") Thus parents who choose a voucher-redeeming public school for their child would receive \$3700, and parents who choose a private school would get \$2960. In accordance with a means test, however, children from households with adjusted gross incomes above \$150,000 will be prohibited from receiving vouchers until

all other eligible students are given the opportunity.

The current draft of the initiative would also regulate basic school standards. Among other things, it would require schools to produce financial statements; it would require teachers to have bachelor's degrees or take competency tests; and it would require explicit parental consent to any religious curriculum. Entrepreneurs

Who's In Charge?

THE initiative and referendum process stands as a stark reminder that ours is a government of, by and for the people. Or is it? The case of *Gregorio T. v. Wilson*, currently wending its way through the federal courts, is the latest in a long string of cases that cast doubt on the proposition—cases in which left-wing special interest groups such as the American Civil Liberties Union, the Mexican American Legal Defense Fund, and the National Lawyers Guild—not to mention a multitude of environmental groups—attempt to accomplish in the courts what they have failed to accomplish in the political arena. In the case of *Gregorio T.*, they seek to preserve public education and welfare benefits for illegal aliens in California.

Last November 8, with great fanfare, over five million Californians—59 per cent of those voting—approved Proposition 187, denying most forms of state-funded welfare benefits (excluding emergency medical treatment) to illegal aliens. They did so because the federal government has failed abjectly to control the border with Mexico, and because of the disastrous economics of legal mandates that taxpayers provide illegals with education and welfare benefits. They did so despite ugly accusations of nativism and racial prejudice and in the face of threats of social unrest. The voters faced down American flag-burning demonstrators and Mexican flag-carrying irredentists. But they have not fared so well in the American courts.

Lawyers were literally standing in line to file suits the morning after the election. Within 24 hours, a state judge who was appointed by Governor Jerry

Brown had enjoined the law, and another, more comprehensive injunction was issued by Federal Judge Mariana Pfaelzer, who had been appointed by President Jimmy Carter. Pfaelzer will preside over *Gregorio T.*, which is now set for late September. This is only the first round in a legal battle that will almost inevitably be decided—years down the road—by the Supreme Court.

Already Judge Pfaelzer has ordered the state to post notices in all public schools, government hospitals and clinics, and welfare agencies, informing illegal aliens that Proposition 187 is not being enforced and that no one seeking public services will be reported to the INS. (The plaintiffs had requested newspaper, radio, and television advertisements to this effect—presumably in multiple languages.) She has also forbidden the state to publish any implementing regulations without her permission. She even refused California's motion that she abstain from ruling on the constitutionality of Proposition 187 until state courts had a chance to interpret the law, even though the State of California had filed a declaratory relief action in state court and state

agencies were in the process of developing regulations to implement Proposition 187. (On July 14, the Ninth Circuit Court of Appeals issued a narrow ruling in an interim, expedited appeal, holding that Judge Pfaelzer's decision on the abstention issue was not an abuse of discretion.)

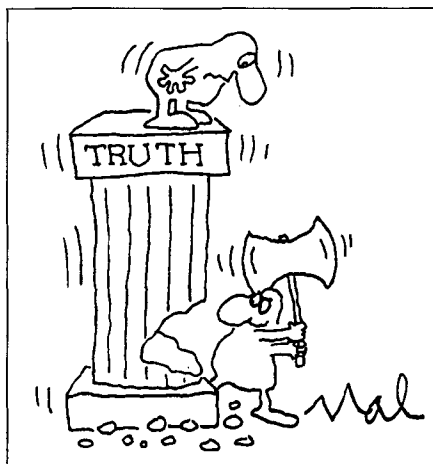
Gregorio T. has taken on the raucous quality of an ideological crusade—which of course it is. In June, a federal magistrate went so far as to order California Governor Pete Wilson and Attorney General Dan Lungren to appear for a deposition in the case. This was too much even for Judge Pfaelzer, who overturned the order.

OF COURSE, California voters and taxpayers should keep in mind that if the opponents of Proposition 187 prevail in court, in whole or in part, in overturning the will of the public, their lawyers will submit huge bills for their legal fees to be paid by . . . the public!—just as Rodney King's lawyers did.

This is a sad modern-day civics lesson. The will of over five million California voters has been thwarted by two judges, both of whom were appointed by long-departed Democratic administrations and neither of whom is directly accountable to the voters. The litigation in this case is far from over and its outcome is uncertain. But in the meantime, lawyers are churning up huge fees and illegal immigrants are free to consume costly public services and education, at taxpayer expense, without fear of apprehension or deportation. Unelected judges will ultimately decide whether the Californian majority of last November will get their way—much as they recently decided that numerous state majorities wouldn't get their way on congressional term limits.

Who's in charge? Americans are entitled to ask. Who, indeed?

—MARK S. PULLIAM



Mr. Pulliam is an attorney in San Diego.

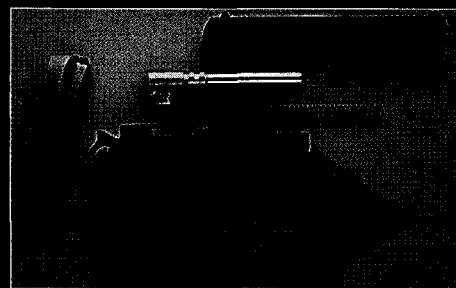
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who wished to open voucher-redeeming institutions would need accreditation from a recognized accrediting entity. And the application process would be reviewed by the State Superintendent of Public Instruction.

This draft of the initiative remains open to revision until the September filing deadline, and many of the traditional supporters of school vouchers—including Milton and Rose Friedman—are pressing for a reduction in its regulatory language. But there will likely be no rival version placed on the '96 ballot, due to the immense financial requirements of qualifying an initiative and running a viable campaign.

WHETHER the regulatory language of the Walton version is pared back or not, there will be no part of the voucher school approval process as onerous as that required by California's 1992 charter school law, which has been considered a major step forward in privatization.

The charter school law allows up to 100 approved schools to break free of the 6,000-page Education Code, freeing them from costly state mandates, school district bureaucracies, and union control. But getting a charter approved has proven a near impossible task, explaining why—after three years—there are only 87 charter schools, many in small rural districts. The process requires the approval of local school boards and the signatures of 50 per cent of teachers at potential sites. School boards are loath to relinquish power in this way. As for teachers, Sheryl Stevens, executive director of the Orange Unified Education Association, calls the charter movement "union busting." "To think for a minute that the teachers would vote to be released from the protection of the union and the Education Code is laughable."

That's why any voucher initiative in 1996 will represent a huge step forward. If passed, the bureaucrats and unions will be less powerful and parents more. The education establishment is so terrified that they are talking about reform. In a speech to the California Network of Educational Charters' San Diego Conference, state Superintendent of Schools Delaine Eastin said, "If we are going to defeat a voucher . . . we must change." El Dorado Charter School Principal Marta Reyes was more blunt: "If we don't achieve reform, then we deserve the voucher." □

Miss Anthony lives in Newport Beach, California, and writes on education and politics.

HUD STRIKES AGAIN

Reinventing Free Speech

LEON MCKINNEY

THE Clinton administration has demonstrated a repeated willingness to ignore the Bill of Rights. Consider the "Hush Rush" bill—the Fairness in Broadcasting Act of 1993—which would have forced conservative and religious broadcasters to offer air time to, say, Queer Nation or NOW. The bill's sponsor, Rep. Bill Hefner (D., N.C.), tipped the liberals' hand when he argued, "there are so many cable channels and talk shows now, and they're nothing but negative attacks on institutions, especially government, at all levels. It's getting to the point where we're not able to govern."

HR 1985 died when House Democrats were deluged by angry letters and calls from constituents. But further assaults on the First Amendment were forthcoming, in which Roberta Achtenberg—lesbian activist, former San Francisco Supervisor and current Assistant Secretary for Civil Rights at the Department of Housing and Urban Development—has played a lead role.

First came HUD's prosecution of the "Berkeley Three"—property owners who protested the scheduled opening in their Berkeley neighborhood of a home for recovering alcoholics. HUD looked upon these protests—involving handbills, public meetings, and petition drives—as violations of the Fair Housing Act Amendments of 1988. It demanded fines of up to \$100,000. Achtenberg went on TV to say that our First Amendment rights end when we start "discriminating" against "protected classes." President Clinton apparently realized this was the sort of government abuse conservatives were scoring points on, and ordered HUD to drop the case and issue new guidelines to avoid actions which "unduly chill the exercise of free speech."

Achtenberg seems to have ignored the President (assuming he was serious): Subsequently at HUD's direction, the Justice Department's Civil Rights Division filed a suit against five homeowners in Bakersfield, California. Their crime was delaying the opening of a for-profit group home for severely retarded adults in their neighborhood, by obtaining a temporary restraining order from the state.

The "Bakersfield Five"—Charles Kirschmann, William and Linda DeRose, and David and Kathryn Fitzgerald—own homes in the Stockdale Estates subdivision, which has covenants, conditions, and restrictions (CC&Rs) constraining use of homes to single-family residences and precluding commercial activity. These CC&Rs are recorded in every deed, including the deed to the property lying between the DeRoses' and Fitzgeralds' properties, which was bought in 1992 by Armando and Erlinda Sanchez. The Sanchezes own Altaville Residential Care, Inc., operating seven for-profit boarding homes for retarded adults in the Bakersfield area, and they decided to start up an eighth facility—for six people—in Stockdale Estates. Altaville gets \$148.58 per day per resident through the federal government's Medicaid program. Hence the new home would mean \$321,000 annual profit in taxpayers' dollars for the Sanchezes.

The Bakersfield Five argued that part of the value of their homes lay in the CC&Rs: prohibiting commercial businesses limits traffic and noise, enhancing residents' "peaceful enjoyment" and making the streets safer for kids. To enforce the CC&Rs, they obtained a state court injunction against Altaville.

The Sanchezes appealed to HUD, which launched the investigation that led to the federal suit against the Bakersfield

Five in October 1993, charging discrimination against the disabled.

The Justice Department demanded that these five citizens hand over their federal and state income tax returns and liability insurance policies; sources, amounts, and kinds of income received since 1990; information on real estate properties; and details of conversations with their lawyers. It also requested the names of "each person who attended any meeting of any residents of Stockdale Estates" regarding Altaville. HUD sought compensatory damages of at least \$75,000 and punitive damages for the Sanchezes and some of their retarded clients.

Pacific Legal Foundation attorney Victor Wolski, who represents the Bakersfield Five, insists that "under [current] guidelines, HUD should not be prosecuting our clients for filing a legitimate, state-court lawsuit to protect their rights"; HUD has disagreed because the relevant guidelines became effective after the suit was filed.

THUS set upon by the federal government, these five beleaguered citizens offered to withdraw their complaint in state court—allowing Altaville to open its new group home in their neighborhood—in return for HUD dropping its suit. Amazingly, HUD and Justice rejected the offer.

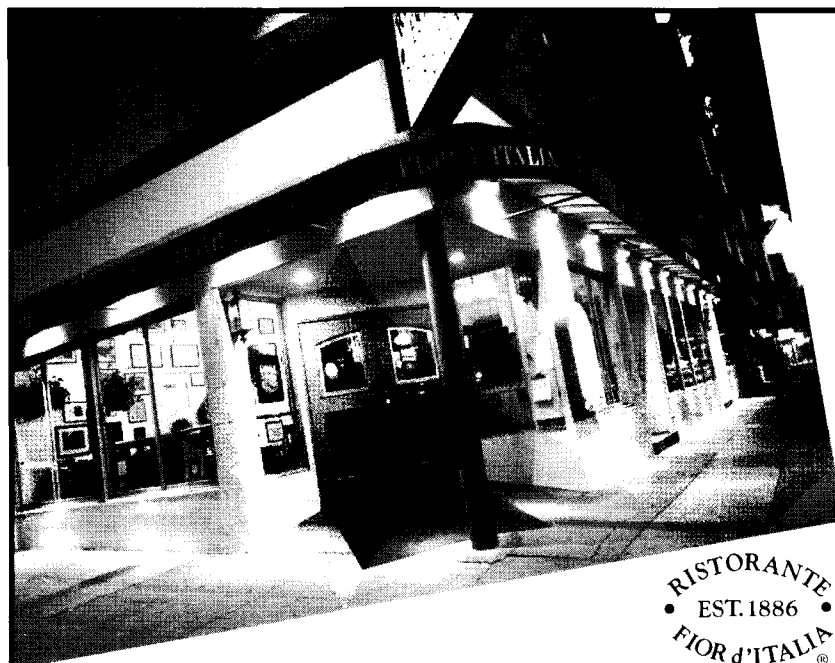
Wolski suggests that these bureaucratic zealots see the Bakersfield Five as dangerous bigots and are determined to make examples of them. If that means suspending their civil rights, well, the end justifies the means. Now finally, after weeks of unfavorable media coverage of this case, the government is finally showing signs that it may accept the defendants' offer.

Wolski doesn't mince words: "Using Justice Department lawyers as henchmen, HUD flexed its bureaucratic muscle to intimidate and silence taxpayers who dare speak up for their rights." He sees this as part of a general crusade to weaken property rights and break up single-family neighborhoods.

Ed Jagels, the County District Attorney in Bakersfield, agrees: "For filing a case in court, these homeowners are now accused of a civil rights violation and face huge fines. Can it be a violation of federal civil rights law to go to court to try to assert your rights? That's scary."

And the liberals wonder that some people join militias. □

Mr. McKinney is a freelance writer who lives in Huntington Beach, California.



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Tocqueville's Wyoming

TOCQUEVILLE'S classic description of America seems a work of outright fiction nowadays. Can this country ever have been a place where government had only "enumerated" powers, where people lived without getting government permits for everything but breathing, where "the government" was mainly what you and your neighbors decided, and where personal reliability rather than special connections secured the full dignity of citizenship? In our America, the rules of life—thousands of them—are made and enforced by bureaucrats wielding quasi-legislative and quasi-judicial powers, and you transcend the status of a cipher only insofar as you can get "heavy hitters" going to bat for you. Limiting government and empowering people are hot topics today. But they are largely theoretical because only a minuscule proportion of us have ever lived as citizens under limited government.

These few throwbacks to Tocqueville's America live in sparsely populated parts of the West. The most Tocquevillean state is probably Wyoming. Its highland beauty beckons, but its windy seasons serve to fend off immigration. Wyoming ranks dead last in population. But whereas the people in the 49th ranking state, Alaska, are concentrated in three real cities, Wyoming's metropolises are smaller than standard suburbs, and good sized towns have between 800 and 8,000 people.

Scale means a lot. Aristotle taught, and America's founders took for granted, that a republican way of life can exist only where people know one another and the public business first hand. The genius of American federalism, of

course, was to keep nearly all public life in communities where everybody could be somebody. Indeed, within living memory, school districts throughout America were the size of neighborhoods, and the federal courts had not yet stripped local governments of significance.

Going to Wyoming is like emigrating to Tocqueville's America. Linger any time and you won't be anonymous. Like everybody else, you will have the measure of respect you have earned. Even the clerks at the state motor vehicles office will treat you as if you were somebody. Everybody is somebody—but no more than that. The governor and his cabinet live in houses with listed phone numbers. The surest way for anyone to wreck his standing in society is to be presumptuous. Empowerment is not a hot topic because, among other things, parent power in the schools is a reality rather than an issue, and because remoteness makes it possible to imagine that Washington does not matter much.

Self-selection, too, matters. Whether dentists, lawyers, or mechanics, folks who choose Wyoming accept making less money in more precarious circumstances in exchange for freedom and beauty. Wyoming's economy soars when energy, minerals, and livestock markets are up, and crashes when they are down. Tourism, too, is cyclical. Voluntarily living on thin, shifting margins heightens self-reliance.

Not surprisingly, Wyoming politics are conservative. In 1990 pro-life Democrat Mike Sullivan won the governorship by painting his opponent, the brother of U.S. Senator Alan Simpson, as a liberal elitist. But in 1994 Sullivan—an engaging man who seemed to have a bright future—badly lost a race for the U.S. Senate against an spectacular opponent because people were not about to send reinforcements to Bill

Clinton. One issue, however, overrides all others. In 1988, for example, a leftist bartender almost defeated Malcolm Wallop's bid for a third Senate term despite Wallop's total consonance with the state's political views, simply because of rumors that Wallop might have "gone Washington" and that his heart might not have been in Wyoming any longer.

Wyoming's conservatism, then, is less a set of ideas than a fiercely American way of life. Take guns. Few in Wyoming either demonize or worship them. Most folks own several, like shoes. Or take crime. Wyoming has little, not because people take virtue pills or because cops are tough, but rather because there is little anonymous social space for it. In other states, the new militias have gained recruits. Not in Wyoming, where federal tyranny is more theoretical and the ideal of an armed citizenry is more real than elsewhere.

MODERN ways, however, are intruding. Modems and faxes are making it possible for young people to earn as if they were in the suburbs without having to move there. Someday major companies might even relocate branch offices in Ten Sleep or Encampment to attract outdoor-minded software engineers. But for now the fastest-growing spot in Wyoming is the spectacular Jackson Hole—where, so the quip goes, the billionaires are crowding out the millionaires.

Like Aspen in Colorado, Jackson has in a sense ceased to be part of Wyoming. Few yuppies live Tocquevillean lives. Nor for the most part do the transients who provide them with goat cheese and ski lessons. So when Wyoming people drive in to Jackson, they feel the chill of modern, anonymous America.

The chill also comes from many of the career employees of the federal agencies that own almost half the land in the state. They speak of "vehicles" and "resources" rather than of trucks and land, and push senseless regulations with draconian penalties. Here and there, one also hears private individuals speak bureaucratese and psychospeak, an all too reliable indicator that the mentality of the new America may be displacing the old. Presumably, however, such folks will find it hard to suffer their hick neighbors and will seek their own level elsewhere.

—ANGELO M. CODEVILLA

Mr. Codevilla, who will be a professor of international relations at Boston University in the fall, owns a ranch in Wyoming where he spends summers with his family.

Pat Buchanan, Populist Republican

What makes Pat run? Love of the sport, to be sure. But mostly a deep-seated desire to mold the Republican Party in a populist, nationalist—well, Buchananite—image.

ROBERT D. NOVAK

WHEN Patrick Joseph Buchanan announced he would run another guerrilla-style presidential campaign lacking funds, organization, and much chance for ultimate success, I asked a mutual friend this question: Why would he, for the second time in three years, abandon his comfortable life as a newspaper columnist and television commentator?

"For the same reason that you go to basketball games," our friend replied. "He likes it."

Indeed, to the surprise of people who have known him for years, Buchanan found great enjoyment in his first experience as a candidate, when he challenged President Bush. Always thought of as a private person, he discovered he derived pleasure from shaking strangers's hands and hearing their stories. He is one of the few campaigners I have seen in four decades of trailing them on factory tours who takes real interest in what he is being told.

But there is more than self-gratification to why Buchanan runs. As a remarkable number of notable conservatives decided not to run for President, Buchanan began to think that, just possibly, he might be nominated after all.

He may be displacing Senator Phil Gramm—whom he calls a "bogus" contender to lead conservatives—as the principal threat on Senator Robert J. Dole's right. (Gramm, who holds a PhD in economics, has declined to debate

Buchanan on the grounds that he does not duel with unarmed people—meaning that a mere television interviewer cannot match a professor's knowledge of economics.)

Still, as a realist immersed in big-time politics for nearly three decades, Buchanan understands how remote his chances are. Rather, he seems to be involved in a task that transcends 1996—the transformation of the base of the Republican Party. But would that be an enlarged or a diminished base?

The trail-blazing Republican conservatives of the past thirty years, Barry Goldwater and Ronald Reagan, were, each in his own way, engaged in the business of enticing new voters into the Republican fold. But they were not con-

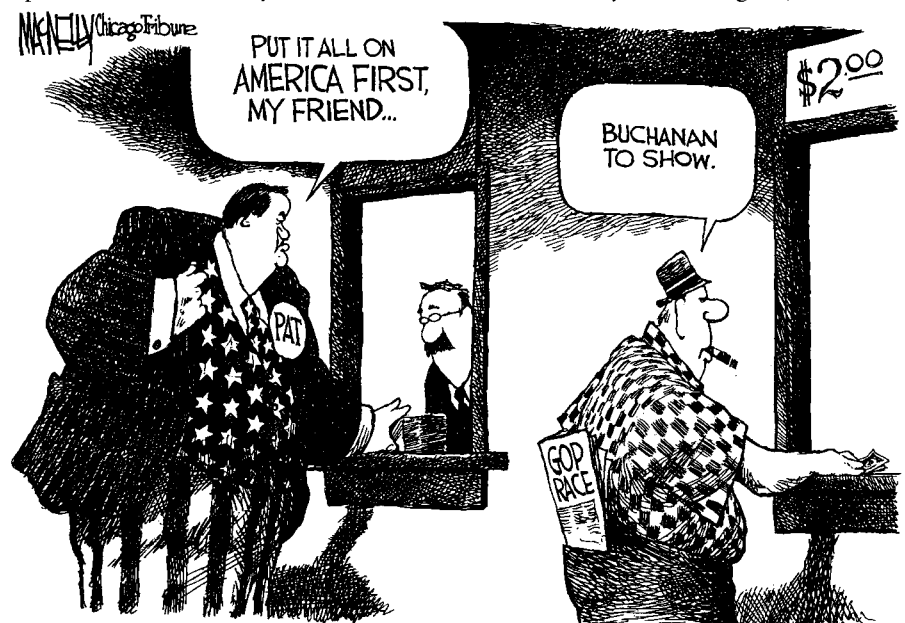
sciously reaching out to a wholly new constituency with ideas that differed substantially from those of their rivals inside the party. It is a *different* conservatism that Buchanan is preaching: not merely much more conservative than that of most of his rivals but different in kind as well.

"I'm populist, I'm traditionalist, I'm conservative," Buchanan says. While it is hard to imagine either Goldwater or Reagan ever calling himself a populist, Buchanan pastes on that label first. Beyond labels, he differs from other Republicans in appealing—as Democrats do—to the losers in the game of life, and he states the difference in blunt terms: "There are too many losers in America who have been forgotten by our Republican Party."

"If I'm the President of the United States," he continues, "the Republican Party will be a Buchanan party entirely. The constituency of the Buchanan party would be poorer, less well-educated, and further down the social ladder."

I TRAVELED with Buchanan recently, campaigning in two states vital to his prospects—South Carolina and New Hampshire. What I saw is a 1996-model Buchanan looking markedly different from the Buchanan of years past, and from other Republican hopefuls of 1996.

Until recently, Buchanan was no more a populist than Joe McCarthy, Douglas MacArthur, or Francisco Franco, the trio elevated by his beloved father, the late William B. Buchanan, as the household gods of his upper-middle-class Roman Catholic family in Washington, D.C.



Mr. Novak is a syndicated columnist and television commentator on CNN.

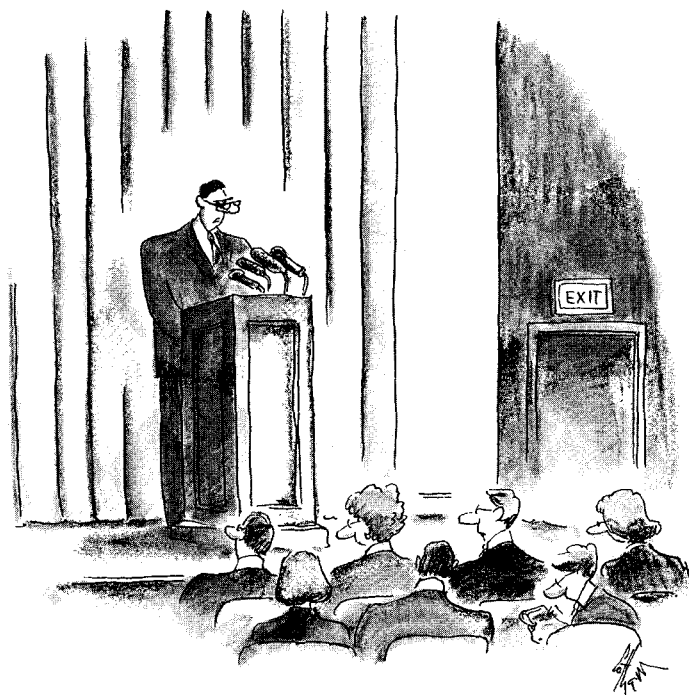
Calhouun Sightings

*Though still not seen like Elvis,
Whose poltergeist breaks through
To matrons at Winn Dixies,
And sometimes in the loo,
With five Supremes concurring
On gerrymandering,
John C. Calhoun is haunting
Sites sacred to the King.*

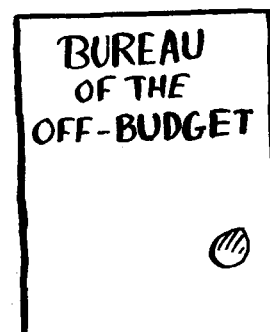
—W. H. VON DREELE



"After 37 years, you're still full of surprises, Martha."



"In regard to my earlier statement, just let me say that I am in total agreement."



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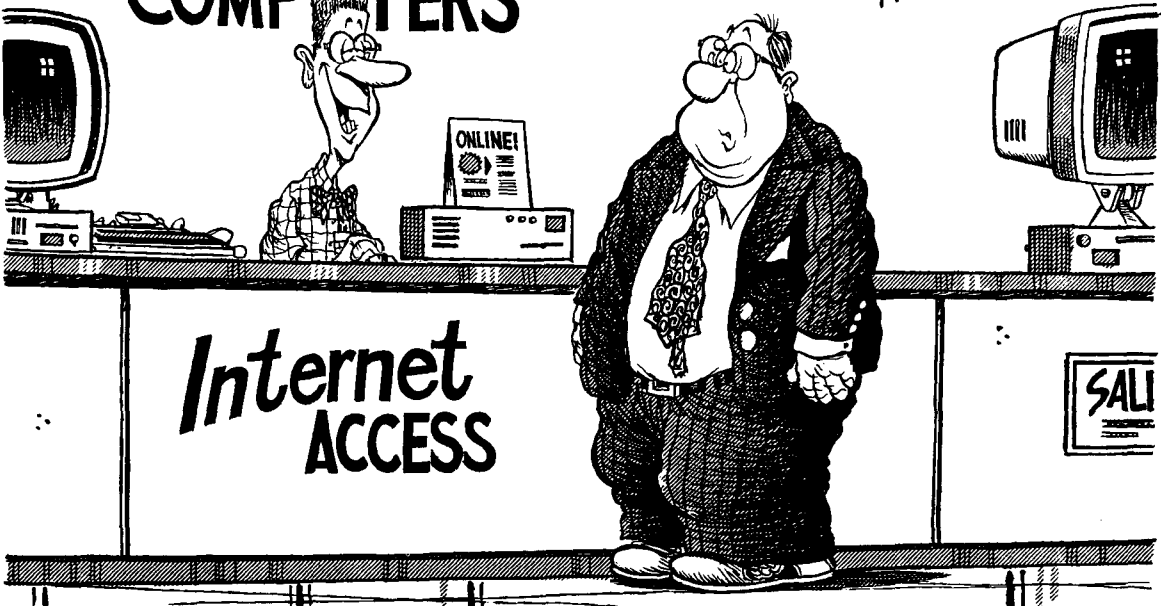
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"SO WHAT ARE YOU LOOKING FOR? ... SOFTCORE-WARE OR HARDCORE-WARE?"

Rather, he was a highly orthodox postwar conservative Republican, a Cold Warrior who left no doubt that the struggle against international Communism was his first priority. As a speechwriter in the ideologically divided Nixon White House, he was part of the band of conservatives who seldom prevailed and seldom surfaced publicly.

The nation's first chance to observe Buchanan's virtuosity as a communicator did not come until the Nixon Presidency had begun its death throes, in September 1973. Testifying before the Senate Watergate Committee in its fifth month of televised hearings, Buchanan became the first Nixon aide to take the measure of the investiga-

tors—defending himself against flimsy evidence imputing “dirty tricks.”

When Nixon fell, President Gerald Ford rejected the recommendation by Nixon's last chief of staff, Alexander Haig, that Buchanan be nominated as ambassador to South Africa. That refusal left the way clear for the launching of Buchanan's successful career as a po-

Bay Watch

WASHINGTON, D.C. **I**N the early 1970s Angela (“Bay”) Buchanan was working on a masters degree in math at McGill University in Montreal. The numerous American professors and graduate students, she suspected, were there partly because of the Vietnam draft. “So Pat does this article out of the Nixon White House on draft-dodgers,” she recalls. “I just said, ‘That’s it! I’m going to get Fs!’ I wrote him back: ‘Could you calm down a little bit?’”

He didn’t, and hasn’t since. Nor has Bay Buchanan ever stopped defending her brother in their joint political odyssey. It’s no accident that while other candidates have media-savvy wonderkinds or grizzled Beltway insiders as top advisors, Buchanan has his sister.

“What [Pat] took on in New Hampshire [in 1992],” Bay explains, “is he went from the debater, the man who really knows the issues, to the person who understands how it affects people. He became a leader of people. He spoke now from his heart, not from his mind.” Of his campaign, she says, “No pollster can figure it out unless they are there and can feel the passion and the energy of people who want certain things done in Washington.”

When Bay Buchanan speaks, her hands strike the air in the same decisive gestures as her brother’s. She rushes out three or four staccato points building just like Pat to—boom!—the clincher. All the while, she leans forward to stare more intently into her listener’s eyes. With the sharp chin, the prominent cheek bones, the effect can be almost eerie: Pat’s female clone? “When he says something very strongly,” she recounts, “I’ll think about it, and I’ll come right back if I disagree, or he’ll do the same to me. We don’t back off right away.” Just imagine: on the Right, Pat Bu-

chanan, and . . . on the Right, Bay Buchanan.

It’s tough to exaggerate her influence. Ron Robinson, president of the Young America’s Foundation, says, “She’s the engine that runs the Buchanan machine. She’s the one that stays up on the conservative community, the one that has the best grasp of practical politics.” “She is as key to her brother’s campaign,” maintains *Human Events* writer John Gizzi, “as Robert Kennedy was to his brother’s campaign in 1960.”

Bay was one of nine children in the sprawling, devoutly Catholic Buchanan family. Pat, ten years her senior, would occasionally pat her head on his way out the door. It was when Pat joined the incipient Nixon campaign in the mid 1960s that Bay first awakened to politics. By the time she was in college and Pat in the Nixon Administration, she had developed a fighting faith: “Pat was there, Nixon was controversial, so I had to make certain [I knew the issues]. I had to defend my brother.”

Bay took leave from McGill to join the fray herself in the Nixon re-election campaign in 1972. Afterwards she finished her degree, then taught for a year before living briefly in Australia, where she converted to Mormonism. Back in the States, she worked as treasurer of the Reagan campaigns in both 1976 and 1980. In 1981, she became at age 32 the youngest Treasurer of the United States ever. She married and had three children, whom now, after a divorce, she raises alone.

After Treasury, Bay moved to Orange County, California, where she became involved, not always happily, in local politics. She managed Bruce Herschensohn’s 1986 Senate primary campaign and lost. In 1990 she herself ran for state treasurer and lost a tight primary. She even managed to get on the wrong side of some intra-party battles, working as a consultant for a pro-choice can-

didate—and subsequent “Republican for Clinton”—in a congressional primary against Dana Rohrabacher, who won the primary and the seat, but still bristles over Bay’s role in the race.

BACK east a more satisfying cause was brewing. In 1988 Bay was urging Pat to run for President. He begged off, leery of bloodying Jack Kemp. Three years on, after reading a particularly sharp attack on George Bush in one of his columns, Bay phoned her brother: “We don’t have any time for any further discussions. If you’re interested in running give me a call.” He called. The 1992 effort faded into the American Cause, the advocacy group run by Bay, which in turn metamorphosized into the current campaign.

With its high-octane mix of “economic nationalism” and social conservatism, the campaign is an odd successor to the free-trade, interventionist Reaganism both siblings revere. “We had certain platitudes we were all very comfortable with,” Bay explains. “Times changed. And those of us who really weren’t leaders remained stagnant. Pat moved ahead.” In any case, Reagan in her version is less about ideas than about a deeply felt populism. “What was Reagan about?” she asks. “He represented the American people. They felt they had somebody who really understood their concerns, their problems. They placed their trust in him.”

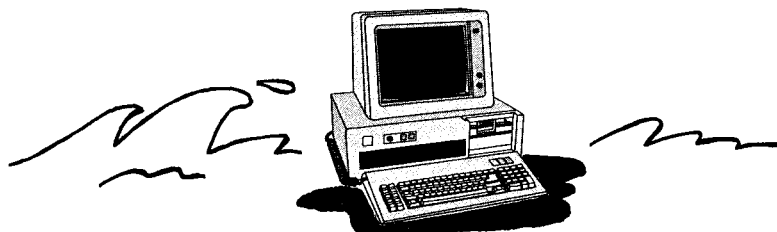
“That,” she continues, “is where Pat is the same: he represents them as no one has since Ronald Reagan.” In much else, of course, he is different. The Buchanan faith isn’t limited-government conservatism, but an activist populism willing to use government to protect “the people.” This vision—willing to exercise governmental power, beholden to popular passions—has a potentially ugly side. But listening to the kid sister defend her brother with sincerity and spirit, it just seems like the Buchanan ethic writ large: defend your own.

—RICH LOWRY

Mr. Lowry is NR’s national political reporter.

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litical commentator, leading him back to the White House as communications director in Reagan's second term.

His role under Reagan was much as it had been under Nixon: a resident conservative, with the emphasis on fighting the Cold War.

When Buchanan turned up in 1987 at Lafayette Park, attacking congressional Democrats for defunding the Nicaraguan Contras, it was obvious his days as a White House aide were numbered. He was seriously considering a campaign for the Presidency.

Late in 1987, conservatives from around the country were crowded into Buchanan's home in McLean, Va., in a contentious meeting. Many present were ready that very day to begin a campaign for Buchanan as the lineal descendant of Goldwater and Reagan. But others heatedly responded that the mantle belonged to Jack Kemp, and pleaded with Buchanan not to stand in his way.

Buchanan did not run, causing his father to ask him why in the world he did not seek the opportunity. In truth, the reason he did not had more to do with "Pop" Buchanan than with Jack Kemp. He did not relish the prospect of his father picking up the *Washington Post* ("my hometown newspaper") each day to read the dirt about his son's life. While asserting that he was standing aside rather than spoil Kemp's big chance, Buchanan never actually endorsed Kemp, and ended up voting for Bush in the Virginia primary.

In *Right from the Beginning*, Buchanan's delightful memoir, he made clear his lack of enthusiasm for Kemp's supply-side emphasis. "To me," he wrote, "economics is an inexact science; it is not a matter for moral certitude."

In that memoir, however, he gave little hint of the populist to come. He exalted free trade, urged resistance against "the concerted pressures of American corporations and unions" for protectionist measures, and contended that to "squander" U.S. world trade leadership "in an absurd 'trade war' because we cannot compete with Korean cars or Japanese computer chips would be an act of almost terminal stupidity."

Indeed, serving in the Reagan White House in the late 1980s, Buchanan had informed South Carolina textile magnate Roger Milliken (who is today a major backer of his candidacy) that he was unalterably opposed to quotas. "And if you go down the hall," Buchanan told his future supporter, "you'll find

an even stronger free-trader than me"—Ronald Reagan.

What changed him? Liberal commentator Mark Shields, who grew to like and admire Buchanan as his colleague

What changed him? For the first time Buchanan experienced unemployed white workingmen devastated by their inability to fit into the global economy.

on CNN's *Capital Gang*, believes Buchanan experienced an epiphany when he campaigned against Bush in New Hampshire. For the first time, Shields says, Buchanan experienced unemployed white workingmen devastated by their inability to fit into the global economy. "Buchanan is living proof that campaigns do matter," Shields has written. "He was visibly moved by his pre-Christmas 1991 visit to a North Conway, N.H., paper mill on the very day that more than three hundred workers received word of their layoffs."

Buchanan also has been influenced by Samuel Francis, columnist for *Chronicles* and the *Washington Times*, who has become a close friend and advisor. Francis's call for "a Middle American nationalism" to put the national government at the service of hard-pressed citizens coincided with what Buchanan had seen in New Hampshire.

Buchanan tells audiences about his father, a self-employed accountant bringing up nine children, "and each year the standard of living of our family went up." In contrast, "the folks who work with their hands and tools and machines have seen their real wages go down 20 per cent over the last twenty years" while salaries "for people in Washington, D.C., in journalism, and in things like that are going up."

The new Buchanan is unique among Republican candidates in calling attention to the widening gap between rich and poor, unique in attacking the investment banking firm Goldman Sachs for laying off its low-income workers while, as he put it, giving pay increases to its top executives, unique in supporting Democratic proposals to confiscate wealth from Americans who renounce their citizenship to escape taxation.

Wall Street, the target of the Left for much of the nation's history, is in the Buchanan bull's-eye. As he puts it in his basic speech, "NAFTA, GATT, and

other agreements are designed mainly for the benefit of the folks in Wall Street so that they can move production anywhere in the world, not caring where jobs go, so that they can pay the lowest

possible wages. They have lost their connection to American working men and women."

BUCHANAN is in dangerous territory here. Although he continually invokes the spirit of Ronald Reagan and rejects the Left's assault on the Eighties as the time the decline of the working middle class began, his own populist rhetoric tends to support that position.

He is seeking to escape from that posture by a tour de force: an attempt to marry economic nationalism with supply-side growth theory. This is a double departure from the Buchanan of the late Eighties, from both his free-trade orthodoxy and his contempt for Kemp's concentration on tax cuts.

While supporting (along with Dole and many other Republicans) Clinton's hard line against Japan, he opposed the threatened tariff on luxury cars. Contending that this sanction would backfire by costing American workers and merchants their jobs, he offers a much more imaginative alternative.

Details are still being worked out at this writing, but Buchanan would impose a 10 per cent ad valorem tariff on all goods imported from countries whose exports to the United States are double or more their imports from the United States.

What is unique about Buchanan's plan is how he would use revenue from the tariffs: to cut domestic taxes, including total exemption for many small businesses and massive cuts in capital-gains taxes. He has been conferring with Alvin Rabushka, the flat-tax guru at Stanford's Hoover Institution.

The Buchanan tariff-tax plan looks similar to the economic policy pursued by a supply-side icon, Calvin Coolidge, who maintained an across-the-board tariff while he was cutting income-tax rates. Although Gramm warns Buchan-

Think of this page in NATIONAL REVIEW as a chance encounter with a strange old man in his tiny, ancient shop on some half-hidden side street. From a dusty shelf filled with many wondrous and unknown things, he takes down a notebook and shows it to you. Neatly hand printed, it contains fifty years of tabulated data, news stories, notes, and commentary of all kinds. It tells you exactly how to make money consistently in the market and, even better, how to keep what you earn and not lose it.

But you're in a big-city type of rush; you have no time to linger, and you still have faith in money-managers and their computers, so you thank the old man politely and rush back to your own frenzied world. After a time, after the market has hurt you (as it inevitably will), you go back to look for that old man and, like an episode out of a fifties television series, you are told that there never was such an old man and the street you're looking for never existed. And from then on, whenever money problems keep you awake, whenever the career or job becomes joyless, you wonder about that vanished old man and his wondrous magical notebook, and about all the grief and pain and worry it could have saved you.

When I retired, I received some extravagant offers for my legendary notebook. Ever since the days of Eisenhower, hula hoops, and chrome tail-fins, it has not missed any major market move or any important market reversal—never, not once. It was a wise and silent companion in a glorious journey from mean streets to a country estate. But it is also the kind of thing which the greedy tend to hide from the world, as I did for over four decades. The grasping and greedy shall not have my labor of love; it shall not disappear; I'll sell it to those readers of NATIONAL REVIEW who will have the brains and good judgment to buy a copy. The cost is \$200—1/50th of some of my offers; about a dime a week for the data and time frame it covers. Survival, expertise, even wealth—at fire sale prices. Some Wall Street types will be furious!!

Do you remember that photograph of Bobby Fischer sitting on a patio studying his notebook, getting ready for Boris Spassky? My notebook is like that, except it deals with the stock market. If you spend a quiet forty-five minutes or an hour in its company, you'll be able to go up against anybody in the world of stocks—anybody.

- ♦ No abracadabra, no jargon, no double-talk; even if you know absolutely nothing about the market, it will teach you:
 - ♦ How to read the market so you know exactly what's going on.
 - ♦ How to select stocks which will make money for you now—not in some value-unspecified future.
 - ♦ How to be at a safe distance when the market collapses (and it will).
 - ♦ When short selling is the safest investment decision of all.
 - ♦ How to sell short profitably.
- ♦ Simply knowing how the market moves opens an infinity of profitable options for you.
- ♦ As a broker, analyst, advisor, fund manager, trust officer, accountant, etc., you increase your practice by actually making money for clients.
- ♦ You can use it as a promotional mail out or for investment seminars—it's not copyrighted and there are no proprietary names anywhere in it.

It is said that people will let a golden moment pass, thinking another will come along—it never does. Others have dated the changing of their lives from the reading of a single book. This is one of those moments: one of those books, one of those chance encounters, the greatest—and perhaps the only—chance you will ever have to learn the market as few have ever learned it. To make your market timing superb, your stock selection uncanny—just think what that will do for your children's college fund and your own life-style! This opportunity shall not come again. When my copies are gone, they're gone. There will be none left to sell at any price. The strange old man and his quaint shop will have forever vanished. Actually, he will not have vanished at all. He'll be roaming the back roads, battlefields, and meadows of the Shenandoah. Do you have a better lifestyle?!

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an's ideas could lead to a trade war, free-trade economists I talked to—including prominent Democrats—said it makes more sense than Clinton's strategy.

BUCHANAN'S appeal to the American workers losing out to global competition is necessary politically to compensate for the defections that he, and the Republican Party under his leadership, would incur from his combative stance on social issues.

He is defiantly unapologetic about his famous speech at the 1992 convention in Houston in which he declared a cultural war. "The fight we are in now for the soul of this country," he says today, "is every bit as important as the Cold War." When so conventional a Republican as Dole attacks Hollywood's portrayal of sex and violence, Buchanan thinks he has made some points.

But he is still clearly separated from the increasing number of Republican office-seekers who tiptoe between the pro-life foot troops and the pro-choice financial contributors. "I will be the most pro-life President in the history of the United States—bar none," he told a recent rally in Greenville, S.C. As for other Republicans, "If they will waffle on the right to life when they need your support, what will they do when they don't need you any more?"

At the same rally, Buchanan attacked the agreement by the Clinton Administration, supported by Republican leaders, to allow the World Trade Organization to adjudicate differences between the U.S. and its trading partners. "Our Founding Fathers must be turning over in their graves," he said.

This combination of cultural conservatism and economic nationalism won cheers from Republicans uneasy about Dole. But it was troublesome for a Perotite in the audience. Delighted by the attack on the WTO, she was uneasy about the anti-abortion rhetoric. "But mostly," she told me, "we like what he says."

Buchanan must capture substantial numbers of Perotites to compensate for the hemorrhage of Republicans who believe the demonization of him as a crypto-fascist. If Buchanan has been safely within the bounds of conventional policy as a candidate, his syndicated column explored the outer reaches of nationalism (such as questioning America's entrance into World War II) in what William Bennett outrageously asserted was "flirting with fascism."

Buchanan must also reach beyond even Perot supporters and appeal to people outside the usual political community. He did that in a recent appearance at the Timco logging operation in New Hampshire.

"The Canadians can run a socialized operation in their country, if they want," he said. "Socialized timber. Socialized logs. If they send their product to the United States, we will put ad valorem duties on it so that it competes at the same level with free-market operations here at Timco." Dead silence.

In the question period that followed, the logging workers wanted to know not about competition with Canada but about gun control. Buchanan responded: "I believe in the whole Bill of Rights, and that means the Second Amendment. That doesn't just mean the right to go out and shoot ducks. It means the right to protect your family." Smiles and sustained applause followed.

Buchanan also talks about immigration in a way that other Republicans do not. "Americans are moving out of Miami, they're moving out of Los Angeles," he said on *Meet the Press*, implying that Hispanic newcomers—even naturalized citizens—are not quite full-fledged Americans. He has not repeated that unfortunate turn of phrase, but he calls for a five-year moratorium on immigration—"a time-out so that we can assimilate the immigrants that have come in."

CAN A candidate so deviant from Republican orthodoxy really contend for the nomination? His plan is simple. Underfinanced and

unknown in Iowa, he must somehow pull himself to a second-place finish behind Dole in that state's caucuses. Then, quickly on to New Hampshire, where he could knock out Gramm, but where his true goal is to stun Dole by scoring an upset with help from the *Manchester Union Leader*. Then Buchanan must score in South Carolina to make himself a legitimate contender.

The scenario remains highly improbable, but it is just realistic enough to wipe the condescending smiles from the faces of Republican establishmentarians. If he ends up as the conservative alternative to Dole, Buchanan is their second worst nightmare.

Their very worst nightmare is an independent Buchanan candidacy that would guarantee a second term for Bill Clinton. He won't do it, though he once considered it.

Buchanan is no fan of Bob Dole. His motive for considering a 1988 candidacy was his revulsion at the thought of the deal-making Dole succeeding Reagan, and he voted for Bush instead of Kemp in the primary because he considered Dole unacceptable. But now he says that "Bob Dole is a friend of mine" and that, as a good Republican, he never would oppose the nominee.

The overwhelming odds, then, are that Buchanan will return to his newspaper column and CNN early in 1997. But for the long view, he has prophesied a different kind of Republican Party, and my bet is that he will continue to pursue that goal. The Doles, Gramms, and Kemps shrug off Buchanan the candidate, but they ignore Buchanan the prophet only at their peril. □

Just Don't Go

Why is the UN Conference on Women being hosted by the most radically anti-woman regime on earth?

ROBERT P. CASEY & ROBERT P. GEORGE

DESPITE pleas from human-rights activists across the political spectrum, President Clinton has decided to send a high-profile delegation, under the honorary chairmanship of First Lady Hillary Rodham

Clinton and including at least two members of his Cabinet, to the Fourth United Nations Conference on Women next month in Peking.

China remains a totalitarian police state that systematically violates every

civil liberty. It holds thousands of political prisoners including, as we write, Harry Wu, a veteran of the Chinese gulag who, after becoming an American citizen, returned to China to further document the Chinese government's use of slave labor.

More to the point as regards this conference, China's population-control policies are known to include both coerced abortions and the forced sterilization of women who become pregnant in defiance of the government's "one-child policy." This policy encourages sex-selection abortion and even infanticide of baby girls. It has led to a demographic shortfall of tens of thousands of female children who have been destroyed for no reason other than their sex. In view of these abuses against women and children, it is more than perverse for the United Nations to hold a conference on women under Chinese auspices and for the United States to participate.

No one should imagine that the Clinton Administration is sending its delegates to Peking to confront the Chinese government on its record. This Administration, after all, stands by an Immigration and Naturalization Service policy that refuses asylum for women who have entered the United States after fleeing a regime that imposes abortions and sterilizations. And the State Department has made it plain that the United States will do nothing to embarrass China's rulers at the conference.

For their part, Chinese officials are shrewdly taking advantage of the conference to legitimize their population-control policies. Indeed, they have gone so far as to appoint Peng Peiyun, director of the state agency that enforces the one-child policy, to be co-chairman of the planning committee for the conference. This is the moral equivalent of naming Bull Connor to chair the United States Commission on Civil Rights.

WHY is the Clinton Administration playing along? The answer can only be the enormous power wielded within the Administration by radical feminists and population-controllers who regard the family and traditional morality as enemies of human progress. Groups such as Inter-

national Planned Parenthood and the Planned Parenthood Federation of America view the Peking conference, as they viewed last year's World Conference on Population and Development in Cairo, as an opportunity to export to the developing world their ideology of "liberating" women from family life and, particularly, from children.

Central to this agenda is the international marketing of Western elite ideas of "sexual freedom" and a "right to abortion." In meetings held to prepare a draft of the document which will receive final approval in Peking, Western delegations, led by North Americans and Scandinavians, have insisted on using the term "gender," which they define as "socially constructed," rather than "sex," which is biologically fixed. There are two, and only two, sexes. There are, so far as "advanced thinkers" are concerned, at least five legitimate "genders": male and female heterosexuals, male and female homosexuals, and bisexuals.

More than academic theorizing is at stake here. What is going on is an effort to create an internationally recognized "human right" to "alternative lifestyles." For example, the draft suggests a right to sexual freedom for adolescents. As if there were not already enough threats to the innocence of children—an innocence which is still valued in many developing nations and by the majority of Americans—the draft calls for the broad dissemination of "information" about sexuality and birth control to young people throughout the world. Now, thirty years' experience with "sex education" gives Americans ample reason to know that, too often, the point of this "information" is to indoctrinate children in the ideology of "sexual freedom." And the proponents themselves are hardly unaware of this. A proposal by a Guatemalan delegate who had the temerity to suggest teaching children self-control rather than birth control was met with derision.

An attempt to create an explicit international right to abortion spectacularly failed last year in Cairo. So now the Western delegations are resorting to the euphemisms of "privacy," "termination," and the like to insinuate such a right into the Peking draft. Proving yet again that American radicals have never met an abortion they didn't approve of, they are now prepared to snuggle up to the Chinese perpetrators of coerced abortion and sterilization in the cause of

spreading "the right to choose" to countries that still protect the right to life. This rather Orwellian idea of "choice" has not kept away from Peking the very people who not long ago led boycotts against states that failed to ratify the Equal Rights Amendment.

What is missing from the draft document is as telling as what it includes. Marriage and family as vocations for women get scant attention. So too do parental authority and rights. When delegates from more traditional nations suggested language "recognizing the rights, duties, and responsibilities of parents and other persons legally responsible for children," Western delegations "bracketed" these passages as sufficiently controversial to require further discussion at Peking. Recognizing the rights of parents—who might, after all, refuse to grant their children "sexual freedom"—must seem pretty scary to people who admire Swedish sexual mores. Apparently they view parental rights (or, at least, maternal rights) as beginning at conception and ending at birth.

THE message that the United States should be sending to the world is that family integrity and women's equality are not antithetical ideas. Expanding economic opportunity for women, equal pay for equal work, and other principles of non-discrimination need not be linked to a devaluation of the roles of wife and mother. Instead, we should promote programs and policies that offer women meaningful alternatives to abortion, poverty, and exploitation.

People in developing nations have seen the moral, spiritual, and physical ravages of the sexual revolution in the West. They are sobered by the feminization of poverty, horrified by the consequences of fatherless families, and appalled by 1.5 million abortions per year in the richest, most powerful nation on earth. As leaders such as Pakistan's Benazir Bhutto made plain in Cairo, people in many non-Western societies value marriage and the family and respect the sanctity of unborn human life.

The vast majority of Americans have much more in common with those citizens of developing nations than with Tim Wirth, Bella Abzug, and the others whom President Clinton sent to represent the United States at Cairo, and who continue to call the Administration's tune on family policy. Peking

Mr. Casey, former governor of Pennsylvania, is chairman of the Campaign for the American Family. Mr. George is an associate professor at Princeton and a member of the United States Commission on Civil Rights.

makes it clear that the Clinton Administration, however much it talks the talk on family issues, walks the walk with those who have contempt for the moral ideals and religious beliefs of most Americans.

President Clinton describes himself as "anti-abortion" yet "pro-choice." How odd, then, that he seems determined to hand a massive public-relations victory to a brutal Communist dictatorship that can only be described as pro-abortion and anti-choice.

And what has the Republican leadership had to say about forced abortions and Peking? As of this writing, nothing. Speaker Gingrich has called for the withdrawal of the U.S. delegation if the Chinese restrict the religious freedom of American participants or refuse to release Harry Wu. But he has so far said

nothing about the tragic absurdity of holding a conference on women in a country which subjects women to forced abortion. All of this is sadly consistent with the deplorable de-emphasis on protecting the unborn on the part of many Republican leaders.

If an American delegation is to go to China, it should go only to denounce Peking's abuses against Chinese women and their unborn and newborn children, and to offer positive programs to advance the interests of women. A policy more faithful to America's traditions and ideals would both deprive China's rulers of their public-relations coup and make it clear that America intends to side with the women of China—and the people of America—against anti-family zealots at home and abroad. Just don't go. □

blue-collar worker can obtain credentials as an engineer by attending an extensive in-company training program rather than going to a university.

THE common thread that runs through these four apparently unrelated vignettes is that, in each case, economic actors supported one another because they believed that they formed a community based on mutual trust. The banks and suppliers that engineered the Mazda and Daimler-Benz rescues felt an obligation to support these auto companies because the latter had supported them in the past and would do so again in the future. In the German case, moreover, there was a nationalistic feeling that such an important German trademark as Mercedes-Benz should not fall into non-German hands. Workers at Nucor were willing to accept severe cuts in pay because they believed that the managers were hurting as well and were committed to not laying them off. The workplace in Germany is flexible and egalitarian because workers trust their managers and fellow workers to a higher degree than in other European countries.

The community in each of these cases was a cultural one, formed not on the basis of explicit rules and regulations but out of a set of ethical habits and reciprocal moral obligations internalized by each of the community's members. These habits gave members of the community grounds for trusting one another. Decisions to support the community were not based on economic self-interest. The Nucor managers could have decided to award themselves bonuses while laying off workers, as many other American corporations did at the time, and Sumitomo Trust and Deutsche Bank could perhaps have maximized their profits by selling off their failing assets. Solidarity within the economic community in question may have had beneficial consequences for the bottom line over the long run; certainly Nucor's workers were motivated to give their company an extra measure of effort once the recession was over, as is the German foreman whose company

The Economics Of Trust

For rugged individualists, Americans have been remarkably trusting. That may be eroding—and much else with it.

FRANCIS FUKUYAMA

A NATION'S well-being, as well as its ability to compete economically, is conditioned by a single, pervasive cultural characteristic: the level of trust inherent in the society.

Consider the following vignettes from twentieth-century economic life:

—During the oil crisis of the early 1970s, two automakers on opposite sides of the world, Mazda and Daimler-Benz, were both hit with declining sales and the prospect of bankruptcy. They were bailed out by a coalition of companies with which they had traditionally done business, led in each case by a large bank: Sumitomo Trust and the Deutsche Bank. In both cases, immediate profitability was sacrificed to save the institution—in the German case, to prevent it from being bought out by a group of Arab investors.

—The recession of 1983–84 that ravaged America's industrial heartland hit the Nucor Corporation very hard. Nu-

cor had just entered the steelmaking business, building mini-mills using a new German continuous-casting technology. Its mills were operated by non-unionized workers, many of them former farmers. To deal with the drop in revenues, Nucor put its employees—from the CEO to the lowliest maintenance worker—on a two- or three-day work week, with a corresponding cut in pay. No workers were fired, however, and when the economy and the company recovered, it enjoyed a tremendous esprit de corps that contributed to its becoming a major force in the American steel industry.

—In Germany, shop foremen on the floor of a typical factory know how to do the jobs of those who work under them and take their place if the need arises. The foremen can move workers from one job to another and evaluate them based on face-to-face dealings. There is great flexibility in promotion: a

Mr. Fukuyama is a senior social scientist at the RAND Corporation. This article is excerpted from his forthcoming book, Trust: The Social Virtues & The Creation of Prosperity, ©1995 by Francis Fukuyama. Reprinted by permission of The Free Press, a division of Simon & Schuster, Inc.

helped him to become an engineer. But the reason these economic actors behaved as they did was not necessarily that they had calculated these economic consequences in advance; rather, solidarity had become an end in itself.

By contrast, consider situations in which the absence of trust has led to poor economic performance and its attendant social implications:

—In a small town in southern Italy during the 1950s, Edward Banfield noted that the wealthy citizens were unwilling to found a school and a hospital, which the town needed badly, or to build a factory, despite an abundance of capital and labor, because they believed it was the obligation of the state to undertake such activities.

—The French shop foreman's relations with his workers are regulated by a thicket of rules established by a ministry in Paris. This comes about because the French tend not to trust superiors to make honest personal evaluations of their workers. The formal rules prevent the foreman from moving workers from one job to another, inhibiting development of a sense of workplace solidarity and making very difficult the introduction of innovations like the Japanese lean manufacturing system.

—Small businesses in American inner cities are seldom owned by African Americans; they tend to be controlled by other ethnic groups, like the Koreans. One reason is an absence of strong mutual trust among the contemporary African-American "underclass." Korean businesses are organized around stable families and benefit from rotating credit associations within the broader ethnic community; inner-city African-American families are weak and credit associations virtually nonexistent.

These three cases reveal the absence of a proclivity for community that inhibits people from exploiting economic opportunities. The problem is a deficit of what the sociologist James Coleman called "social capital": the ability of people to work together for common purposes. The concept of human capital, widely understood among economists, starts from the premise that capital today is embodied less in land, factories, tools, and machines than in the knowledge and skills of human beings. Coleman argued that in addition to skills and knowledge, a distinct portion of human capital has to do with people's ability to associate with one another. The ability to associate depends, in turn, on

the degree to which communities share norms and values. Out of such shared values comes trust, and trust has a large and measurable economic value.

WITH regard to the ability to form spontaneous communities, the United States has had more in common with Japan and Germany than with societies like Hong Kong and Taiwan, or Italy and France. The United States has historically been a high-trust, group-oriented society, even though Americans believe themselves to be rugged individualists.

But the United States has been changing rather dramatically over the past couple of generations. In many ways, American society is becoming as individualistic as Americans have always believed it was: the inherent tendency of rights-based liberalism to expand and multiply those rights against the authority of virtually all existing communities has been pushed toward its logical conclusion. The decline of trust and sociability in the United States is evident in any number of changes in American society: the rise of violent crime and civil litigation; the breakdown of family structure; the decline of a wide range of intermediate social structures like neighborhoods, churches, unions, clubs, and charities; and the general sense among Americans of a lack of shared values with those around them.

This decline of sociability has important implications for American democracy, perhaps even more than for the economy. Already the United States pays significantly more than other industrialized countries for police protection and keeps more than 1 per cent of its total population in prison. Americans

also pay substantially more than Europeans or Japanese to their lawyers, so that they can sue one another. Both of these costs, which amount to a measurable percentage of gross domestic product, constitute a direct tax imposed by the breakdown of trust in the society. In the future, the economic effects may be more far-reaching; the ability of Americans to start and work within a wide variety of new organizations may begin to deteriorate as its very diversity lowers trust and creates new barriers to cooperation. In addition to its physical capital, the United States has been living off a fund of social capital. Just as its savings rate has been too low to replace physical plant and infrastructure adequately, so its replenishment of social capital has lagged in recent decades. The accumulation of social capital, moreover, is a complicated and in many ways mysterious cultural process. While governments can enact policies that have the effect of depleting social capital, they have great difficulties understanding how to build it up again.

The liberal democracy that emerges at the end of history is therefore not entirely "modern." If the institutions of democracy and capitalism are to work properly, they must coexist with certain pre-modern cultural habits that ensure their proper functioning. Law, contract, and economic rationality provide a necessary but not sufficient basis for the stability and prosperity of post-industrial societies; they must be leavened with reciprocity, moral obligation, duty toward community, and trust, which are based in habit rather than rational calculation. The latter are not anachronisms in a modern society but rather the *sine qua non* of the latter's success. □



"Oh sure—you want me to waste my valuable time helping you extinguish your ego!"

War on the Poor: Round 2

ONE hardly knows where to begin when trying to address Rael Jean Isaac's "The War on the Poor" [May 15]. She brings up every old, discredited story ever told by the far, far Right about Legal Services. I have been the chairman of Legal Services Corporation for just a year and a half, but I do have the ability to look at the record, and it doesn't look at all as Mrs. Isaac paints it.

Farms: In 1990, the GAO examined charges much like Mrs. Isaac's and concluded that there was nothing to them. The report said that in the two years that they studied, 1987 and 1988, grantees successfully negotiated settlements in 80 and 87 per cent of their farm cases, respectively. Our records indicate that for subsequent years—1991 through 1993—settlements always exceeded 85 per cent.

In 1993, the American Bar Association's Standing Committee on Legal Aid and Indigent Defendants undertook an exhaustive study of the complaints voiced by, among others, Elizabeth D. Whitley of the American Farm Bureau Federation, who is liberally quoted by Mrs. Isaac. Let me quote two conclusions. From page 6, "In the committee's view, the burdens that litigation imposes on agricultural entities neither justify reduction of support for legal services to migrant farm workers nor imposition of new limitations on activities by lawyers representing farm workers." And from page 9, "... the committee has seen no evidence that legal-services attorneys are making frivolous or coercive settlement demands."

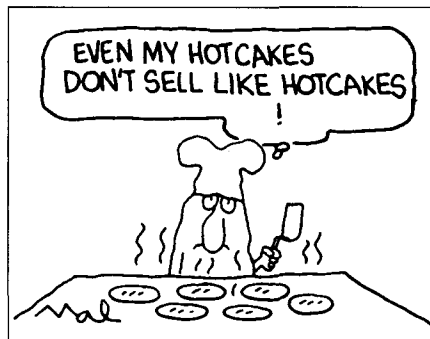
Turning to Mrs. Isaac's specific complaints, she says Mauch Farms in Ohio is being sued for, "among other things," having people living in their labor camp before it was licensed. She quotes Judy Mauch as saying, "We had a letter of approval but the certificate was still being processed in Columbus, so it was not yet posted. They're suing us for that. It's enough to drive the farmers crazy." The trouble with all that is that it isn't true. In fact, farm workers represented

by ABLE are alleging that Mauch Farms instructed workers to report fewer hours than they actually worked so as to mask minimum-wage violations, housed workers in crowded and unsanitary labor camps, gave false and misleading information to workers about the terms and conditions of their employment, knowingly provided workers with false information about the work they had performed for Mauch Farms, breached the work agreement with the workers, and retaliated against the workers for complaining about substandard working conditions.

As to the H-2 program, it is far from the "clean jeans of the farming business." Many of the suits against growers in western Maryland were about excluding U.S. workers in favor of imported foreign workers. The claim that "Legal Services . . . closed down all the orchards of commercial size in western Maryland" is patently false. Only one of the orchards involved in the suit, Fairview Orchards, which was owned by a group of West German investors, closed in 1987—not because of the suit, but because of excessive debt. The rest are still in business.

The West Virginia Wage Payment and Collection Act, which Mrs. Isaac characterizes as a forgotten statute passed in 1884, in fact was rewritten in 1975 and was the subject of seven West Virginia Supreme Court decisions between 1975 and 1988. An informed reader could begin to suspect that it is your policy not to research any assertion that fits with your point of view.

Mrs. Isaac also writes approvingly



about Jamaican savings accounts. Let me tell you how they worked. The money withheld from a worker's pay was sent to an office in Washington, D.C., which held the money up to six months before depositing it in the worker's bank account in Jamaica. In the meantime, the workers got no interest and could not get their money. Nor did the workers have an absolute right to their savings. The growers, in an agreement never approved by the Department of Labor, retained a lien on the savings to reimburse them for any expenses they might incur because of the worker. Mrs. Isaac might approve of such an arrangement for Jamaicans, but I doubt that she would tolerate such an agreement with *her* employer.

(Parenthetically, another deduction from the workers' pay was for medical insurance that would pay a worker all of \$10 for an appendectomy. For this, the growers were deducting \$30 to \$40 a year, although the actual cost of the premium was \$15 a year.)

DRUG-RELATED Evictions: The article mentions the Wilkinson inspector general's report. What it doesn't say is that the report found relatively few such cases. The Inspector General surveyed 3,300 public-housing authorities across the United States to ask them about Legal Services involvement in such cases for all of 1989 and for the first seven months of 1990. The IG found that 65 of 284, or fewer than one out of four, basic field programs represented clients in this type of case during that period. Of the 65 programs, 36 handled a single case in which a public-housing authority sought an eviction because of drug activity.

Here is a more recent snapshot. Just a few weeks ago we looked at Legal Aid in New York City, a place with plenty of housing problems and plenty of drug problems. Legal Aid handles about 33,000 cases a year in New York, about 13,000 of them housing cases. It handled just 12 cases in which the New York Housing Authority was attempting to terminate tenancy for drug-related reasons. Of those, 11 cases involved drug activity by a family member of the Legal Aid client in a place other than the client's apartment. The 12th had cooperated with police authorities and, for that, received special consideration from the criminal court. Legal Aid took its cue from those authorities and repre-

sented her—a judgment call people of good will could debate.

So, you might say, why handle any of these cases? The answer is that the police and the authorities sometimes make mistakes. The son of a friend of mine handled one of these cases, in which the daughter of a client, who hadn't lived with her mother for twenty years, was arrested on drug charges and, although the daughter gave her correct address, and although that address appeared on the police report, the client—the arrested person's mother—was faced with eviction. I am glad to say the judge threw that one out of court.

All this is not to say that Legal Services Corporation condones drug dealing or wants to represent drug dealers. Far from it. It is to say that, in real life, these cases are not that simple. I can't imagine anyone who wants a mother or a grandmother evicted, perhaps into homelessness, because of the activities of a son or grandson who may no longer even reside in the household.

Atlanta Legal Aid: Mrs. Isaac states that Atlanta Legal Aid brought a class-action lawsuit against the Atlanta Housing Authority to stop it from denying housing to people on the basis of their criminal history. Wrong. The suit specifically acknowledged the Atlanta Housing Authority's right to screen prospective tenants for past criminal history. The purpose of the suit was to get AHA to look at the outcome of an arrest—whether charges were later dismissed or the person was adjudged innocent. Also, it was to get AHA to adequately inform prospective tenants of their right to a hearing to challenge its decision. The named plaintiff had a warrant sworn out against her by an ex-boyfriend as an act of spite. The warrant was not pursued, but she had an arrest listed in the computer records of the state of Georgia, and, on that basis, she was denied housing. I can just hear Mrs. Isaac sniffing at all this due-process stuff. But, friends, this is basic fairness we are talking about.

The 1995 Appropriations Hearing: Mrs. Isaac says that Legal Services Corporation officials were woefully unprepared for FY1995 congressional appropriations hearings, and quotes one Kenneth Boehm as saying that it was probably because LSC's president, Alex Forger, was distracted by responsibilities he has in connection with the Jacqueline Kennedy Onassis estate. Mr. Boehm is a disaffected former employee who seems

quite obsessive about the program. But be that as it may, let me tell you that the briefing book for last year is in my office and it fills a four-inch-spine three-ring binder. Also, may I say that Mrs. Onassis was alive at the time of the hearing, and there was no estate being managed.

IN conclusion, let me say that if only half of Mrs. Isaac's statements about Legal Services were true, even I would be against it. But her article is a totally distorted, paranoid view of a modest program to give a few of the poorest people in our society a chance to address the third branch of our government, the judiciary.

Why do you people hate that? Perhaps what the *Seattle Times* said in its April 16 editorial is right. It said, "The interests of the poor—as tenants, as consumers, as workers—often run counter to the interests of landlords, businesses, and employers who have violated the law. And those groups generally don't like the idea of government-funded lawyers taking them to court." I guess that's what this is all about.

—DOUGLAS S. EAKELEY
Chairman of the Board
Legal Services Corporation

LET ME begin with what is on the surface the most damaging—but is in fact the most revealing—passage in Mr. Eakeley's letter. Far from being woefully unprepared for congressional hearings, he writes, the LSC had prepared a four-inch-thick briefing book. And, he says, what could be more absurd than to suggest Mr. Forger was distracted by his responsibilities for the Onassis estate when Mrs. Onassis was still alive!

What makes the passage so revealing is that Mr. Eakeley knows full well that what I wrote is accurate: For not only was Mr. Eakeley present at the hearings on April 21, 1994, when Legal Services officials were thrown out for being unprepared, but he personally bore the brunt of the subcommittee's wrath. Here, from the official congressional transcript, are a couple of salvos Congressman Rogers directed to Mr. Eakeley on the stand:

"You say you want a sum of money, but you are unwilling and apparently unable to tell us what you would spend it for. We just don't do business that

way. . . . We put it off what, a month, about a month, so that you could get your act together; and you come in here with a one-page summary of your budget proposal. . . .

"It is unheard of to come in here and demand this kind of money, and not be willing to say how you are going to spend it. It is just a puzzle to me that you would do that."

Presumably the four-inch briefing book was prepared posthaste for the rescheduled hearing two weeks later. (And while Mrs. Onassis did not die until a month after the original hearings, aware of her approaching death, she signed a new will on March 22, prepared by Mr. Forger, who served a dual role as her attorney and executor. The planning involved for a \$200-million estate would have been considerable.)

Why then does Mr. Eakeley make statements that are patently deceptive? Does he think NATIONAL REVIEW will publish his letter without response from the author? Probably not. But this only exposes his shabby strategy. For the letter is not intended primarily for NR readers but for distribution to members of Congress, the media, bar associations, and others who will be told Legal Services has provided the definitive answer to the charges against it. We can be confident that the LSC will not distribute this reply along with Mr. Eakeley's letter. Inadvertently, Mr. Eakeley offers a wonderful illustration of the meretricious nature of the program he heads and of the dirty tricks its leaders are prepared to resort to in its defense.

As to the rest of Mr. Eakeley's letter:

Farms: The 1990 GAO report to which Mr. Eakeley refers was handicapped, as the report itself states, by the inability of investigators to examine the case files (off-limits on grounds of attorney-client privilege) and by the failure of Legal Services programs to collect much of the requested information. As for the high rate of settlements in farm cases, this is testimony to how heavily the deck is stacked against the farmer. Attorneys routinely advise farmers to settle, because the alternative is federal litigation. If the farmer chooses the latter, win or lose, he loses, because his costs are greater than if he had settled. Thus, what is remarkable is not the high rate of settlement, but that in close to 15 per cent of cases farmers choose to fight.

(Continues on page 59)



THE VICE PRESIDENT
WASHINGTON

OFFICE OF THE VICE PRESIDENT
TELEPHONE TRANSCRIPTS 7/19/95
BEGIN EXTRACT 09:11 7/19/95 (RINGS)

UNIDENTIFIED FEMALE VOICE: Good morning, Mr. Vice President.

VPOTUS: Good morning.

UFM: Mr. Vice President, as you know, George Stephanopoulos and I have been working on the task force to review affirmative action laws—

VPOTUS: I wasn't aware of that, actually.

UFM: Yes, well, we are, and anyway—

VPOTUS: Why George? I mean, does he have any special expertise in the field?

UFM: I'm not sure, Mr. Vice President. But if I could continue—

VPOTUS: And why you? Not to be rude, it's just that if we're going to open up that can of worms, it would help to have an African American on the team, providing perspective, giving diversity, that sort of thing . . .

UFM: I am an African American.

VPOTUS: [coughs; paper rustling] I'm sorry. To whom am I speaking?

UFM: It's Hazel O'Leary, Mr. Vice President.

VPOTUS: Hazel! Of course! Hazel! [coughs; paper rustling] I'm still drawing a blank, Hazel.

SEC. O'LEARY: I'm the Secretary of Energy, Mr. Vice President.

VPOTUS: I know! I know! Sorry, Hazel. It's been a busy day!

SEC. O'LEARY: I'm calling to inform you that after a lengthy and painstaking review of the federal affirmative action regulations, George and I have concluded that those regulations, while they need to be reformed, should remain essentially intact.

VPOTUS: Right, right.

SEC. O'LEARY: You don't sound surprised.

VPOTUS: Well, that's the policy we adopted four months ago after consulting with Dick Morris and Stan Greenberg. You know: "Make Bubba Happy; Keep Jesse Quiet."

SEC. O'LEARY: Yes, I've seen the buttons.

VPOTUS: But hey, nice job with the task force. We really appreciate the super effort, Beryl.

SEC. O'LEARY: Hazel.

VPOTUS: Hazel! Hazel! Right. I knew that.

END EXTRACT 09:32 7/19/95

BEGIN EXTRACT 11:23 7/19/95 (RINGS)

UNIDENTIFIED MALE VOICE: Al?

VPOTUS: Yes?

UM: Al, you gotta do me a solid, buddy.

VPOTUS: Who is this?

UM: Don't matter who, buddy boy. You gotta get a message to the Big Man.

VPOTUS: The who?

UM: The Big Man. You know. The guy in charge.

VPOTUS: Dick Morris?

UM: [chuckles; handcuffs rattle; audible over phone: Unidentified Male #2: "Mr. Hubbell, it's time to testify."]

W. HUBBELL: Gotta go. Just get this message to the Big Guy.

VPOTUS: I still don't know—

W. HUBBELL: Write this down. UBS—

VPOTUS: UBS, okay—

W. HUBBELL: Account number 89-6-J.

VPOTUS: Account number 89-6-J—

W. HUBBELL: You tell him ol' Web's doing him straight.

VPOTUS: Slow down, slow down. Ol' Web's . . .

W. HUBBELL: You tell him I'm taking the fall, but he knows where to send my thank-you note.

VPOTUS: He knows where to send . . .

W. HUBBELL: Union Bank of Switzerland, account 89-6-J.

VPOTUS: What?

W. HUBBELL: I gotta go.

END EXTRACT 11:27 7/19/95

BEGIN EXTRACT 17:53 7/19/95 (RINGS)

POTUS: Hey, Buddy.

VPOTUS: Afternoon, Mr. President.

POTUS: Got a sec, Al?

VPOTUS: Sure thing.

POTUS: How come I don't get any credit for working so damn hard? No other president put in the time I do, or cared as much as I do about base closings and Bosnia and AIDS and the environment and campaign finance reform and China and education and the arts and—

VPOTUS: Mr. President?

POTUS: —and the Fed. It's not like I'm not trying. It's not like I haven't talked about a lot of things. I mean, nobody has talked about more things than I have, except maybe Larry King. Why—

VPOTUS: Mr. President?

POTUS: —don't people give me any credit. What?

VPOTUS: I'm actually on the other line right now.

POTUS: That's okay. I'll hold. And that's another thing. This deficit. Hey, I'm the one who . . .

END EXTRACT 18:07 7/20/95

BOOKS, ARTS & MANNERS

In the Beginning

HADLEY ARKES

S PINOZA sought gently to deliver his readers from the superstition that Moses had to ascend Mount Sinai in order to get closer to God. The gesture might have been useful for Moses, as a bit of theater, to make an impression on the minds of his followers. But as Spinoza remarked, God would have been no less near to Moses on the plain than in the heights. God would have heard him quite as well, for God did not suffer from diminished hearing, or from auditory nerves strained by age. With a comparable certitude, Albert Einstein was convinced that there was a design in the universe, that God did not play at dice. In either case, the conviction was rooted in an understanding of the character or nature of God, an understanding that could not be found exactly in the pages of the Bible. And yet, perhaps it could: Might it be that Spinoza and Einstein had simply filled in the ellipses marked off in the Bible? Might they have allied their imagination with the text, and drawn

God: A Biography, by Jack Miles (Knopf, 409 pp., \$27.50)

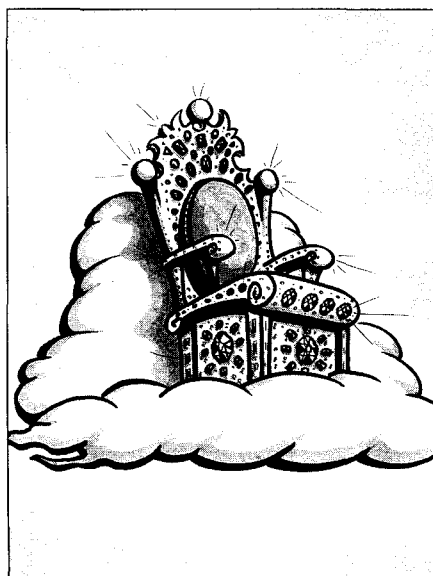
their inferences from the record that had been set down of the words and works of God?

Jack Miles takes, as his key to the problem of God, the problem of character in a play, in a literary work. He finds his analogy in the controversy that centers on Hamlet in the circles of literary critics: Is there a sense of Hamlet, the character, that runs well beyond the confines of the play? Or would we say, in Hamlet's line, that "the play's the thing"—that it becomes impossible to know Hamlet outside the play that imparted structure and meaning to his life? Miles comes down on the side of the character:

Unless the viewer of Hamlet can believe that Hamlet was born and will die, unless the viewer's imagination is carried offstage into the life for which there is no direct evidence onstage, the play dies with its pro-

tagonist. A character understood to have no life offstage can have no life onstage. And so it is also with God as the protagonist of the Bible.

Miles has made his vocation as an editor at the *Los Angeles Times* and a gifted writer. But his training was in theology and Near Eastern languages. He set out, then, to read the Bible with the care of a critic learned in those fields, intending to trace the central figure whose character is unfolded in these chronicles. The reader can be drawn into this absorbing work of literary construction while pre-



serving his detachment on the question of God. That is the seduction of the book, as Miles knows, and he claims that his own mission is to "mediate" between the people who believe in God and those who regard God merely as a literary device. But part of the mystery of the book is just what Miles means by "mediate": Does he intend to bring God closer, make Him more plausible by making Him a more rounded, personal figure? Miles himself describes his work as "consciously postcritical or postmodern." Does he mean then to plant, among the faithful, the premises of "postmodernism" and deconstruction, with their dubiety about claims of "truth"? In the style of postmodernism, God might be treated as a character Who has broken loose even from the control of the authors who invented Him. Still He would be, after all, a character, a literary invention. He would reflect less about a real being than about the writers who invented Him and the moral sentiments of their culture.

In any event, as Miles notes, "whether the ancient writers who wrote the Bible created God or merely wrote down God's revelation of himself, their work has been, in literary terms, a staggering success." Even the atheists who mean to reject God have a vivid sense of the God they mean to reject. What deepens the problem, and makes the character of God all the more compelling, is the fact that the account offered in the Bible is anything but a bowdlerized version. As Miles aptly remarks, much that is said of God in the Bible is rarely preached because, "examined too closely, it becomes a scandal." The account would contain, after all, the God Who was willing to visit the most dreadful calamities upon Job, that upright, good man, to settle a kind of gaming debt with Satan. The God Who is occasionally moody or intemperate, conciliatory or vengeful, becomes a more absorbing figure of interest.

But there is a still greater scandal. For Miles, the serpent in the Garden comes as a sign, early in the Bible, that God the Creator makes mistakes. The punishment meted out to the serpent, and to Adam and Eve, is at least an admission of where His work was in powerful

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need of correction. Miles assumes that God may indeed be surprised or taken aback when His chosen people suffer defeat and dispersal—when, in short, His plans do not seem to unfold as He planned them. Miles keeps bringing back the question “How did this feel to God?”—to the point, in fact, where God begins to sound like a patient in therapy. But how could God be God if He were really surprised by the turn of events—if He really did not know how everything was going to turn out?

And yet that is precisely the possibility that Miles means to incorporate as he moves deftly through the chapters in the Bible. Miles’s understanding here may be condensed in part in this way: God makes mankind in His own image “because he needs an image.” He will not understand His own intentions more fully until He sees the reactions of these creatures made in His image. He is a personal God, and He requires an engagement with men and women in order to gauge more fully what He has wrought. “But at the start,” says Miles, “he does not know what he wishes, and he does not know, either, that he needs his creatures to find out.”

Miles is hardly the first to note the shift from the God of the earlier books—the God Who was willing to punish the innocent with the guilty—to the God of Isaiah, Who wished to beat swords into plowshares. The God in this book is capable of likening Himself to a bride in a marriage with Israel, cast now as the husband. In fact, as Miles argues, it is not until the book of Isaiah that God has ever loved, that love could be “predicated of him as an action or a motive.” It was not from love that God had made man, or made His covenant with Abraham, or delivered the Israelites from Egypt.

Miles notes, also, that God does not demand worship from His people until Sinai, and not until then is it suggested that God in turn may bear obligations. His main injunction up to that point is to be fruitful and multiply. Still, God seems to recognize women as an afterthought, and it is not until Rebekah that a woman addresses God directly. God’s willingness to answer her is taken by Miles as an early sign of His domestication. With Jacob and his two wives, Leah and Rachel, it was recorded that “the Lord saw that Leah was unloved and he opened her womb.” Up to this point, as Miles notes, God addressed himself to women through men, and his

concern with begetting was at the level of founding nations. But now, as Miles remarks, God seems to be in the business of “managing the pregnancies one at a time.”

Still, the enduring lesson on fertility and human autonomy comes with God’s arrangement with Abram—whose name is not changed to Abraham until after the covenant and the acceptance of circumcision. As Miles argues, that requirement was hardly an arbitrary demand for mutilation. “Abram’s penis,” he writes, “is what the covenant is about.” The act of circumcision marks a symbolic concession that “Abram’s fertility is not his own to exercise without divine let or hindrance.” Or in the vernacular of our time, it was meant to signify that we are not wholly “autonomous” beings, deliciously liberated from any restraint or encumbrance in our “reproductive freedom.” In the tradition of Judaism and Christianity, the act of begetting is an instance in which parents participate with God in the act of creation. Much later, the words would come back with Moses, and the sense of restraint would run even deeper. “And now, Israel,” he asks, in Deuteronomy, “what does the Lord your God require of you, but . . . to keep the commandments and statutes. . . . Circumcise therefore the foreskin of your heart.” In the way that God once asked us to surrender complete autonomy over our bodies and our begetting, we are asked now to forgo that claim of autonomy entirely by accepting a Law, and a Law-giver, outside ourselves.

In Miles’s construing, the mind of God has been “objectified in law” as the Hebrew Bible comes to an end. The

God he finds in the last chapters of Daniel is the God Who knows now, in “stone-cold detail,” how history will play itself out. He required, in Miles’s reading, an engagement with His creatures in order to discover His mind, and fix His intentions. Once fixed, He recedes. His voice subsides.

But as the book settles into this cast, the question must remain: Is this indeed the God Who made the covenant with Abraham, or is it merely a literary fiction artfully reshaped by Miles? Has Miles imparted to us the assumptions of postmodernism—or do the devices of postmodernism permit him rather to perform an even subtler turn? Might he be concealing now a traditional teaching in a guise that is brashly “postmodern” and anti-traditional? Miles has suggested that the understanding of God in the Bible seemed to absorb other notions of deities afloat in the ancient world. Yet he asserts that the sifting and editing was done by a number of writers over generations, and he finds it hard to imagine that a coherent notion of God could have been pieced together in this way. “A shared idea of God,” he says, “must have come first.” Otherwise, it would be hard to explain how many writers working separately, over so long a stretch of time, could have produced a work with such a “deep underlying unity.” The postmodernists may read the book with a knowing wink, but Miles seems to have more in mind, by the end, than a literary device. In the sublime twist of the postmodernists, the literary character may spring loose from His writers and inventors, and He may spring free for the sovereign reason that He happens to be real. □

Ghost Story

RADEK SIKORSKI

TINA ROSENBERG is to be congratulated on picking what may be the most important intellectual challenge of the 1990s, namely, how should the part of humanity that fell under Communist rule deal with its legacy. Using East Germany, Czechoslovakia, and Poland, she has highlighted the difficulties these societies face in coming to terms with their totalitarian past. The book is both a useful recent history of the region and an inquisition into the choices that now face

it. It is well researched and engagingly written.

Miss Rosenberg is compassionate and convincing in portraying tragedies such as that of Rudolf Zukal, a Czech Com-

The Haunted Land, by Tina Rosenberg (Random House, 437 pp., \$25)

munist turned dissident, who spent his entire life sacrificing his welfare to his ideals, only to be condemned in free Czechoslovakia for a minor incident

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About the Author

Basil Venitis is the hottest trader of our times, a Wall Street high roller, a futures high hitter, and the keenest economist in New York. He was the first trader to apply Chaos Theory to financial markets. That's why he is considered by many traders as the first market chaologist and the father of Chaos Trading.

thirty years before of spying on an American student who came to no harm. Miss Rosenberg's chapter on General Jaruzelski, the best in the book, will probably be the definitive version of why martial law was imposed in Poland in December 1981. Jaruzelski, she concludes, was Moscow's janissary, a lifelong Communist incapable of standing up to his Kremlin masters. In crushing Solidarity he was both carrying out Moscow's wishes and safeguarding his own power. In short, the martial law was no lesser evil. Jaruzelski simply did what was required of him and what lay in his own self-interest.

Inevitably in the first edition of a work of such scope, there are minor errors. For example, Jan Palach, as far as I know, set himself alight not in Wenceslas Square, but in front of the Prague University. "Bolek," the code name that the Polish secret service gave to Lech Walesa, does not mean "cigarette lighter." They were wittier than that. In my childhood, Bolek was the best friend of Lolek, two children's cartoon characters.

More seriously, Tina Rosenberg is not content merely to report. Instead of sticking to the role of a dispassionate observer she lapses into the tone of a teacher and a prophet. Like some Victorian busybody in Bengal or Kenya, she can't stop herself from telling the natives what is good for them. This is a tricky business for someone who admits to not speaking the languages and who first visited the region in 1991. For example, having shown convincingly that General Jaruzelski was a self-seeking tyrant whose crackdown cost the lives of about a hundred people, she commands that "he should not be tried for martial law. Martial law deserves to be examined by historians, not judges." Oh, really? I wonder whether the families of the victims would agree. And I wonder how Miss Rosenberg would react if some Polish journalist came to America with no English and after a few visits started pontificating to her about the Iran-Contra affair?

It gets worse. "The East Bloc dictatorships necessarily made everyone a co-conspirator. If everyone was a victim of Communism just by virtue of living in the system, so too was everyone a cog in

the repressive machine," she writes in her conclusion. In other words my parents, for example, like millions of other East Europeans who lived their entire adult lives in the camp of progress, and who neither were seduced by the ideology nor joined the Party for the sake of a career, were not decent but dumb; they should have been swine and got ahead; they could then have claimed that, as Miss Rosenberg poetically puts it, "the lines of complicity ran like veins and arteries inside a human body." This is nonsense. The lines of complicity were sharply drawn. She says: "Even the most natural responses of self-preservation were also, in a sense, acts of collaboration.



A journalist knows that a critical article will get her fired, so she writes uncritical ones." This insults all those brave men and women who sacrificed their careers so that they would not have to make such "natural responses" as mouthing Commie propaganda. I can give her dozens of examples of talented people who went into sports journalism, ancient history, angling, etc., simply because their conscience would not let them spread lies. There is a difference between Communists and their victims.

Tina Rosenberg rightly worries that revenge might set off a cycle of violence which would be detrimental to the task of building a civilized society. I think we might all agree that the "trial" and execution of the Caeusescus, for example, was a dangerous departure. But justice for the scoundrels of the old regime carried out by proper legal procedures does not endanger democracy. On the contrary, amnesia about the past does. Five years after Communism's collapse it is clear that there is a direct link between whether or not a country has dealt with its totalitarian legacy and what its democratic prospects are. The Czech Republic, where Communism has been denounced in law as illegal and criminal, and its officials purged, is safe for decent government. Serbia and Russia, where no de-Communization has taken place, are not only nasty, but also more prone to aggressive nationalism because the old Communist elites need enemies to establish their new credentials. Poland, where the attempt was half-hearted and badly executed, wallows in confusion and acrimony.

In absolving Communist villains,

Miss Rosenberg embarks on a dangerous course. She has recently lauded in the *New York Times* the quashing of convictions of, among others, Markus Wolf, the head of East Germany's intelligence service. She went as far as to say, "Western legal experts agree that people cannot be tried for acts that were not criminal when committed." So much for the Nuremberg trials. If a regime lies big, kills millions, but writes its laws so that the abuses are legal, then everything is fine? This is where her logic leads us.

I've applied to Tina Rosenberg my private test of intellectual probity, the David Goldberg test. David Goldberg is a Jewish banker I have imagined who used to do business all over Central Europe. He is dead now, killed by one of the totalitarian regimes that ruled the region this century. The test that this character allows us to conduct consists in gauging the subject's reaction to David Goldberg's death. If we say that he was gassed by the Nazis because of his Jewishness, everyone rightly agrees that it is a heinous crime which deserves condemnation and punishment. But if we say that he was worked to death in a Siberian gold mine because he was a banker, some people lose their moral bearings. The murder of an innocent man on the basis of what he is becomes shrouded in the mists of dialectics. Suddenly, when it comes to Communist crimes, the whole thing is no longer an iniquity but a Shakespearean moral dilemma and a tragedy of misplaced idealism, as if the Nazis had not been idealists too. Tina Rosenberg fails the test. As has been said of Raskolnikov, the hero of *Crime and Punishment*, it's amazing how many brilliant justifications one can think up for killing an old woman with an axe.

In the end, the book suffers because the author can't keep her ideological prejudices at bay. "Communism's ideas," Miss Rosenberg says, apparently without irony, "are indeed beautiful. The New Socialist Man—tireless, cheerful, clean, brave, thrifty, and kind to animals—is an ideal all humanity should aspire to reach." Doesn't she realize that this ideal—particularly as regards kindness to animals (Hitler loved his German shepherd Blondie and even forced the poor bitch into vegetarianism, which I don't know whether to classify as cruelty to Blondie or kindness to the animal she did not eat)—is one that most twentieth-century totalitarians might subscribe to?

Mr. Sikorski is NR's roving correspondent.

Some intellectuals still have not given up the ambition to use state power to tinker with human nature, whether by Nazi racial selection or by Communist brainwashing. Instead of serving people such as they are, they still try to play God to them. In fact, Communism seems to have left less of a mark on the ordinary people who had the misfortune of being governed by it—they go about their daily lives much as people do in most countries—than on those intel-

lectuals who still share its assumptions. It is they who are guilty of the sin of pride and it is they who should come clean and repent.

When I was at university, professors occasionally marked a paper as alpha/gamma—a compound of the highest and the lowest score. This was usually awarded to essays that were cleverly argued, but wrong. Alpha/gamma is what I would award this superb, flawed book. □

tions most readers may have held about the relocation—especially the version given above. Taking seriously his own claim that “no event in history has been so thoroughly recorded,” Smith, who has written numerous works on American history (including the eight-volume *A People's History of the United States*), has produced a singularly balanced account by simply reporting and summarizing the previously recorded words of the evacuees themselves. Ever sympathetic to those whose lives were uprooted, he concludes that the relocation was “wrong and indefensible but ‘understandable.’” “Military, not racial, considerations” led to the decision to relocate. Moreover, “those who condemn the relocation as a ‘racist decision’ have to climb over a mountain of evidence that many Japanese living in California were ardent Japanese nationalists. They might argue that this fact had no military significance . . . but they cannot well maintain that such groups did not exist.” Smith notes that Japan’s failure to invade the West Coast did not make the decision to relocate unreasonable. He presents the ethnic Japanese in America as extensions of Japanese culture and political influence. On this

Rising Sun over the West

KEN MASUGI

AMONG all the subjects of American controversies involving race or ethnicity, perhaps only slavery and segregation have received more widespread condemnation than the World War II relocation of ethnic Japanese from the West Coast. In 1988 President Reagan signed legislation apologizing for “wartime hysteria” and approving payments of \$20,000 to relocated Japanese Americans. The bill he signed, passed by almost 2-to-1 bipartisan margins in both houses of Congress, was inspired by a Carter-era

lor at his sanctimonious best condemning it. On a more scholarly level, Peter Irons’s book *Justice at War* (1983) purported to uncover a conspiracy of Watergate proportions, a suppression of evidence that plainly would have vindicated the hapless Japanese of charges of disloyalty. Both Left and Right have political motives for attacking the relocation.

In *Democracy on Trial* historian Page Smith demolishes whatever preconcep-

Democracy on Trial: The Japanese-American Evacuation and Relocation in World War II, by Page Smith (Simon & Schuster, 496 pp., \$27.50)

congressional commission, packed with liberals (such as former Supreme Court Justice Arthur Goldberg and former Congressman Father Robert Drinan) and heavily staffed by Japanese Americans.

The commission’s report sought to establish an official history of the incarceration of 120,000 ethnic Japanese, two-thirds of whom were American citizens. According to the report, these men, women, and children were needlessly deprived of their rights and dignity; the Roosevelt Administration’s national-security argument for sending American citizens packing into the desert was an utter sham. To deepen Americans’ sense of guilt, the American History Museum of the Smithsonian Institution has mounted a permanent display on the episode, with a video of John Chancel-

Mr. Masugi is a Senior Fellow at the John M. Ashbrook Center, Ashland University.

NEW YORK TIMES BESTSELLER—12 WEEKS

CREATING
A NEW
CIVILIZATION

ALVIN AND HEIDI
TOFFLER
AUTHORS OF FUTURE SHOCK
FOREWORD BY NEWT
GINGRICH

“The Tofflers are back in vogue. The GOP boss thinks they have divined the future.”

—*U.S. News & World Report*

“You don’t need a crystal ball to see that, in Washington, the Tofflers are futurists with a future.”

—*USA Today*

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point, Smith might have noted that Asians in America had appealed to constitutional rights guaranteed to all persons (regardless of citizenship) plus the rights granted them by treaties with China and Japan. (Treaties often voided discriminatory state legislation.) Much of this argument has been presented before, in the works of historians Roger Daniels and John Stephan and in my own writing, and Smith could have considered still other facts, such as the Nihau episode, in which a Japanese American aided a downed Japanese flier after the Pearl Harbor attack.

In Smith's nuanced view, the Roosevelt Administration blundered into the relocation policy. When Attorney General Francis Biddle opposed raids on alien communities as an infringement of civil liberties, General John DeWitt, commander of the Western military sector, felt that security required the mass evacuation of *all* aliens, a move he had previously opposed. From such a sweeping effort, public sentiment would exempt Joe DiMaggio's immigrant father along with other Italians, but the Japanese had fewer defenders. Smith speculates that Biddle's East Coast "pride and arrogance and a touch of self-righteousness mixed in with a splendid solicitude for constitutional rights" led to a focus on the unfortunate Japanese.

While giving heed to opponents of relocation, Smith presents rarely voiced arguments. "Voluntary" relocation having failed, the leadership of the Japanese American Citizens League actually endorsed the forced resettlement policy. These younger Japanese Americans urged enthusiastic cooperation as a mark of their patriotism. Ranging from Northern California to Arkansas, the relocation centers themselves were "schools of democracy," Smith contends. "At most of the centers, hundreds and sometimes thousands of evacuees came and went freely, along with visitors, purveyors of food, evacuees without outside jobs, teenagers on shopping expeditions, . . . athletic teams going to play Caucasian teams 'outside,' . . . and so on." (My parents, for example, would take agricultural jobs during the growing season outside "camp" and then move back for the winter.) Evacuees could draw unemployment compensation. Guards, "like the barbed



wire," were "more symbolic than practical." Students could attend college, and the University of California library offered interlibrary loan service in one camp. Those who found jobs could leave the centers, and thousands of government-sponsored job offers went begging; the evacuees chose familiar barracks over a free but strange world. Ominously, pro-Japan gangs terrorized the pro-Americans, resulting in the segregation of the Emperor's enthusiasts and their ceremonies to the Tule Lake center in northern California. If the camps yielded patriots who fought in highly decorated units in Europe, they had strong pro-Japan factions as well.

While laudably shattering stereotypes, Smith's book is nonetheless unsatisfactory in several ways. His reliance on first-hand accounts ties him to the idiosyncrasies of his sources, such as the moving diary of Charles Kikuchi, on which Smith places great reliance. Smith omits footnotes, and so many of his sources are impossible to check. And errors crop up: for example, he mischarac-

terizes the intriguing strategist Homer Lea's work *The Valor of Ignorance* (1909), which detailed how Japan might conquer the Pacific rim, as a novel. But Smith's most significant shortcoming is his odd understanding of the fierce loyalty many Japanese Americans displayed to America as a Japanese trait of deference to authority, a transference of allegiance from "one lord . . . to another." Why explain the patriotic in terms of the alien?

Smith does not adequately answer the most profound questions the relocation raises: What is patriotism, and thus what is an American? American patriotism is peculiar in that it is a devotion to a set of universal principles, or self-evident truths, concerning human nature, happiness, and self-government. And hence men and women whose ancestors were alien to the West can become American. As Abraham Lincoln taught us, the nobility of the American political achievement is to turn strangers who might have been enemies into friends. Yet friendship requires justice, which must often be harsh and guided by necessity, a grim truth that Lincoln knew better than any other American. □

Battle of the Books

MARK GERSON

WHEN I started teaching sophomore U.S. history at an inner-city Catholic high school in Jersey City, I was allowed to choose between two textbooks to assign to the top class. The decision was mine, but I was encouraged by my department chairman and the principal to use the new set, bought just last year by a teacher who had then left. It was *A People and a Nation: A History of the United States*, by Mary Beth Norton and

Molding the Good Citizen: The Politics of High-School History Texts, by Robert Lerner, Althea K. Nagai, and Stanley Rothman (Praeger, 200 pp., \$55)

five colleagues. I opened the book randomly and saw a passage in bold type on birth control in the 1850s. "Significantly," the text proclaimed, "the birth-control methods women themselves controlled—douching, the rhythm

method, abstinence, and abortion—were the ones that were increasing in popularity."

I knew I was inexperienced, but I could not figure out what such a passage was doing in a short book that purported to take high-school students through early American history. After reading the remainder of the book, I realized that this passage was no anomaly. Miss Norton devotes bold-face sections to "women's rights" (including a reference to "male tyranny against women"), "the role of women" (repeated for different time periods), "working women," and many similar topics. Moreover, she includes pictures of such seminal figures in American history as Judith Sargent ("the first notable American feminist theorist"), Mary Read and Anne Bonney (British pirates), and Rebecca Lukens (who took control of a steel company after her husband and her father died). In contrast, there is no picture of Jonathan Edwards, the extraor-

dinary preacher and leader of the Great Awakening, who is perhaps the most important religious figure in American history. In *Molding the Good Citizen: The Politics of High-School History Texts*, Robert Lerner, Althea K. Nagai, and Stanley Rothman write of "filler feminism" in textbooks. Mary Beth Norton's book confirms the authors' observation that "knowing who Sybil Ludington was does not contribute to the development of a shared common culture."

Textbooks are often criticized for being cursory or incomplete, but the books I used (including *A History of the United States*, by Daniel Boorstin and Brooks Kelly, which Lerner et al. discuss) were informative, clear, and eminently readable. Although *Molding the Good Citizen* maintains that the Boorstin book has succumbed to multicultural influences in a few key areas, I didn't notice it. Boorstin covers all the important events in American history, without embracing the identity politics that has corrupted so much of education. Sure enough, *Molding the Good Citizen* reports that "consultants" have determined that "racism, anti-feminism, and elitism permeated the [Boorstin] work," which was also criticized for not saying nice things about hippies.

Molding the Good Citizen critiques several (but by no means all) widely used history textbooks from the 1940s through the 1990s. Usually the criticism is on target, but sometimes not. Through painstaking research and statistical analysis, the authors demonstrate that history textbooks have maintained a negative view of corporate capitalism and the "robber barons," while bowing to feminism and left-wing black politics by overstating the importance of such historical figures as Harriet Tubman and Crispus Attucks. Attucks, a black man who was supposedly the first to die in the American Revolution, was a minor figure who does not deserve much attention in a basic history textbook. Yet, while Lerner et al. are correct that Harriet Tubman saved "only" three hundred slaves and probably did less for the North than did Harriet Beecher Stowe

(who, the authors critically report, is mentioned less frequently in history textbooks), the importance of Harriet Tubman cannot be overestimated. She was the greatest conductor on the Underground Railroad, which did more than anything else to free slaves before the Civil War, and serves as an excellent contrast to the failed attempts at massive revolt by Denmark Vescey, Nat Turner, and John Brown.

But that begs the question: Does it really matter whether Harriet Tubman or Harriet Beecher Stowe gets more space in textbooks? As long as we are speaking of figures of that magnitude, no. For what is the function of textbooks? It is an overstatement to say textbooks "mold the good citizen." *Education* may help do that, but textbooks are only one small part of education. They are used to supplement lectures or to provide some basic knowledge from which intelligent classroom discussion can begin. High-school students do not learn much from a textbook unless it is imaginatively reinforced by their classroom teacher. And teachers can emphasize whatever they want. One of my students, John, reported that his elementary-school teacher said that Oreos are racist because they show the black crushing the white. If students are corrupted by identity politics, it is much more likely to be from that kind of comment than from what their textbook has to say.

But are most teachers like John's? From my experience as a student and as a teacher, I do not think so. I remember taking an Advanced Placement class in government at Millburn High School in New Jersey with a wonderful teacher, Mr. Stivers. We used "the Wilson book," and Mr. Stivers raved about it. About halfway through the year it occurred to me that "the Wilson book" was very conservative; some passage on bureaucracy gave it away. I knew Mr. Stivers was a liberal (as I was at the time) and asked him about it.

"Yes, Mark," he replied, "the Wilson book is very conservative. But it is still a terrific book on government; informative and interesting—the best there is."

When I began studying neoconservatism in college, I figured out who Wilson was—James Q. Wilson, one of the great political thinkers of the modern era and a forthright conservative. But one did not read "the Wilson book" for its politics; one read it for its unbeatable discussions of American government,

discussions that in my case were enhanced by the craftsmanship of a superb teacher. That is what textbooks are for and what history education should be.

Is there then no reason to worry—as Mr. Lerner, Miss Nagai, and Mr. Rothman suggest we should—about the infection of high-school textbooks with the multiculturalist virus? Multiculturalism remains principally a phenomenon of elite colleges. Yet it is important to heed Gertrude Himmelfarb's warning

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Mr. Gerson graduated from Williams College in 1994. His book on his experience as a high-school teacher, In the Classroom, will be published next year by the Free Press. He is also the author of The Neoconservative Vision: From the Cold War to the Culture Wars, due from Madison Books this winter.

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that "what starts at Harvard and Yale appears in the Midwest or in the South or in the most remote parts of the country in three months."

Starting at Harvard and Yale, multiculturalism has indeed trickled down—witness the Sobol Commission Report on New York schools in 1991 or the

recent federally sponsored National History Standards. Still, while there are notable exceptions—and we are fortunate to have *Molding the Good Citizen* to point out the problems—high-school history textbooks remain a relatively light casualty in the culture wars. □

To the Couch!

JAMES BOWMAN

DAVID LODGE's new novel is only partly *about* therapy. Mostly it *is* therapy for those, like its hero, Tubby Passmore, who are experiencing the various "Internal Derangements" attendant upon advancing age. This seems to be the season for male-menopause novels from Britain, but Lodge covers slightly different territory from that of Martin Amis's more spectacular but less satisfying book, *The Information*. Tubby is 58, not 40 as the heroes of Amis's novel are, and his belated "mid-life crisis" has none of the apocalyptic overtones of theirs. Instead, it is a quietly and comically desperate

Therapy, A Novel, by David Lodge (Viking, 324 pp., \$21.95)

grasping at some accommodation with God and guilt and marriage and mortality which has much more the feel of real life about it.

It also has some of the freshness and humor of Lodge's earlier novels, such as *Changing Places* (1975) and *How Far Can You Go?* (1980), and it re-traverses some of the ground covered by the latter's witty exploration of the theme of growing up Catholic in the 1950s. Strangely, although Lodge is the professor (at the University of Birmingham), it is Amis who has the more academic style. Lodge's prose does not turn up so many nuggets of verbal gold, but it is less self-conscious, more of a consistent pleasure to read.

Here, for example, is how Tubby, the writer-creator of a TV sitcom, describes himself watching a videotape of arthroscopic surgery on his knee, as performed by a Levantine doctor called Nizar:

It was a brightly lit, colored, circular image, like looking through the porthole of a submarine with a powerful searchlight. "There it is, you see!" cried Nizar. All I could see was what looked like a slim

silvery eel biting chunks out of the soft underside of a shellfish. The little steel jaws snapped viciously and fragments of my knee floated off to be sucked out by the aspirator. I couldn't watch for long. I always was squeamish about violence on television.

Not only is such prose unobtrusively sharp and visual, focused on its subject rather than its own brilliance, it is also just right for the voice of Tubby, who is as likable a character as a first-person narrator has to be to take us through an entire novel.

His TV show, called *The People Next Door*, is about the complexities of class differences in Britain as revealed in the relationship between a progressive-minded but rather hidebound middle-class family and their neighbors, who are of inferior social origins but more laid back and genuine. Tubby is himself the son of a tram-driver from south London who left school at 16 but who, since he has been successful, has started to be curious about intellectual matters. He is forever looking things up, especially words. His mild self-consciousness about his origins comes out in a slightly finicky but endearing concern for correct English.

He has also gone in for therapy in a big way. He goes to a woman called Alexandra for cognitive behavior therapy (an alternative talking therapy to classical psychoanalysis), to a physiotherapist, an aromatherapist, and an acupuncturist. In the past he has even practiced something called "Inversion Therapy" for his baldness, which consists "of hanging upside down for minutes on end to make the blood rush to your head." He juggles his various therapists like rival lovers whom he doesn't want to know about one another, and retains inconsequential odds and ends of advice, none of them of much use in allaying his chronic depression. One day

he interrupts his therapy with Alexandra in order to show her how to blow her nose properly: "It's the one thing about yoga that's really stayed with me. How to blow your nose."

Tubby brings to his various therapies the engaging perspective of the simple, the down-to-earth, and the intellectually unpretentious. "Alexandra thinks I'm suffering from lack of self-esteem. She's probably right, though I read in the paper that there's a lot of it about. There's something like an epidemic of lack of self-esteem in Britain at the moment. Maybe it has something to do with the recession." He himself, however, is doing all right. His TV show is a hit and he has plenty of money, so he is a little at a loss when he has to make up a list for Alexandra of the good things and bad things in his life:

Under the "Good" column I wrote:

1. Professionally successful.
2. Well-off.
3. Good health.
4. Stable marriage.
5. Kids successfully launched in adult life.
6. Nice house.
7. Great car.
8. As many holidays as I want.

Under the "Bad" column I wrote just one thing:

1. Feel unhappy most of the time.

A few weeks later I added another item:

2. Pain in knee.

The vague sense of existential angst is genuine enough, but it is also associated with the class dimension of the novel. For the kinds of neuroses that Tubby finds himself developing, and perhaps his therapeutic obsession itself, are among the accoutrements of wealth. Just as he drives a car that he calls "the Richmobile" and indulges himself in expensive Italian loafers, so he turns not only to therapy but to its most top-drawer intellectual antecedents. In particular, he takes Kierkegaard as the explicator of his psychic distress. Nothing but the best for him now, even as he seems to be coming unglued.

He stumbles on Kierkegaard as he is looking things up. At first he finds him hard going—"dead boring and very difficult to follow"—but he soon begins to recognize himself and even his fellow Britons in Kierkegaard's description of the unhappy man, caught between hope and remembrance. For him the moment of happy remembrance is England's winning the soccer World Cup in 1966. Since then, "We've become a nation of

unhappy hoppers." At other times, Kierkegaard offers Tubby food for more idle thought, as when he quotes from *The Seducer's Diary* and thinks of his philandering agent, Jake Endicott: "Perhaps that's how Jake pulls the birds." But Tubby actually seems to get something out of Kierkegaard, too, to assuage his dissatisfaction with his own life. In particular, he comes to a new appreciation of his marriage—just before his wife announces that she is leaving him.

At this point in the novel, the first-person narrative is apparently discontinued, and we are treated to a series of "dramatic monologues" in the voices of various people involved in Tubby's life at this stage, including his wife. From these we are able to piece together an account of the breakup and Tubby's desperate attempts to do something about it with all the comic and even farcical elements intact. Having read through them, however, we learn that they have all been written by Tubby himself—as part of his therapy. They are an amazing tribute not only to his dramatic skills (*The People Next Door* must be quite a show) and his self-knowledge but also to Lodge's masterly manipulation of irony and point of view. Tubby's clear-sightedness extends not only to the breakup of his marriage and the threatened loss of his TV show but also to his increasing obsession with Kierkegaard, whom he has begun to identify with his own conscience.

He thinks it owing to Kierkegaard when his conscience begins to nag at him with guilty memories of his behavior toward his first girlfriend, Maureen Kavanagh, whom he knew when they were schoolchildren in the early 1950s in south London. As part of his therapy he also writes a touching "Memoir" of their relationship, evocative of youth and innocence and of a happier time both in his life and in the life of the nation. This effort inspires him to go and search for Maureen, who is now married to his teenage rival. He finds her engaged in "a kind of therapy" of her own—a pilgrimage on foot to Santiago de Compostela in Spain, mourning the loss of a son. It is Tubby's arrival that enables Maureen to complete her pilgrimage when she is on the point of giving up, and it is his attentions that assuage her losses, including the loss of

a breast to cancer. The description of the virginal Tubby's teenage encounter with the same breast is a particularly memorable part of the "Memoir."

As they are coming out of the cathedral at Compostela, whose splendors Tubby compares to the shabby little Kierkegaard museum in Copenhagen, he wonders "whether, if Kierkegaard had been a Catholic, they would have made him a saint by now, and built a basilica over his grave. He would make a good patron saint of neurotics." The suggestion is of a kind of absurd synthe-

sis of Kierkegaard and the remains of Maureen's Irish Catholicism, which once drove her and Tubby apart but now serves to reunite them. That the two of them—along with Maureen's dry old stick of a husband, a retired civil servant who regards his life (rightly) as having been wasted—are at last prepared to go off on a pilgrimage to Copenhagen together may seem an implausibly happy ending for people who have been so battered and broken by their middle age, but it worked for me. This is a wonderful novel. □

FILM

Uncomic Strips

JOHN SIMON

WHY the fascination with comic strips as material for movie adaptations? One can see making films from art forms of equal standing—fiction, drama—though even these seldom work out; but why adapt beneath your station? Because comic strips, no laughing matter, have

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Mr. Bowman is American Editor of the Times Literary Supplement.

an enormous following, and people want to see how four frames per day translate into 24 frames per second.

And so we have *Judge Dredd*, based on a popular British strip, and filmed in England and Iceland. We are in the Third Millennium, when "the world changed. Climate. Nations. All were in upheaval. Humanity itself turned as violent as the planet." How violent is that? I thought that planets were well-behaved, and only man was vile. But never mind: why shouldn't most of the United States be a vast desert called Cursed Earth, where "nothing grows, inhabited by marauders, scavengers, and outcasts" from the three Mega-Cities in which the population is concentrated? Perhaps because even marauders, scavengers, and outcasts have to eat, and how are they to manage that where nothing grows? But never mind: mind is never what comic strips are about.

Mega-City One, quondam New York, is a place where Block Wars among gangs are the chief game in town, which is what happens when 65 million are crowded into a walled city only mega enough for 20 million. To govern this urban wilderness, there are Judges, some of whom sit in council, while others, in robotic uniforms, roam the city, pronounce instant sentences, and are empowered to execute them. Under the circumstances, the Council Judges seem somewhat redundant, but never mind. Most feared and honored among the Street Judges is Joseph Dredd, who careers about on a law-master cycle, which boasts a micro-computer, and two auto-cannons, and which coincidentally also flies. His weapon is a voice-activated handgun with seven kinds of ammunition, the Lawgiver, DNA-coded to a particular Judge and unusable by anyone else.

Other Judges of interest include Chief Judge Fargo, Dredd's protector, wise and worthy enough to be played by Max von Sydow, the epitome of cinematic wisdom and worthiness. Also Judge Griffin, played by the German actor Jürgen Prochnow, his accent proof of his villainy. Further, Judge Hershey (an excellent name for the bar), played by the charming Diane Lane. She is secretly in love with Dredd, who, however, can't be

bothered to waste feeling on anything other than the law.

An escaped convict, Rico, who bears a disturbing resemblance to Dredd (at least in the script, though not so much on screen) commits a couple of murders as a first step to becoming Ruler of the City. With the help of his accomplice, Judge Griffin, he gets the innocent Dredd convicted of them and sent to a remote penal colony. For self-sacrificial reasons too complicated to explain, Chief Justice Fargo (Wells Fargo or far to go?) is turned out into the wilderness, no doubt to bring justice for the marauders, outlaws, and scavengers to subsist on. Judge Hershey, who unsuccessfully defended Dredd at his rigged trial, is heartbroken. And that's only the beginning, folks, but you get the picture—in both senses.

While wearing his dark helmet that hides most of his face, and his black metallic armor, Dredd has that cozily familiar Darth Vaderish look; only when he doffs the helmet and becomes Sylvester Stallone does he assume unpleasantly robotic qualities. Yet as the computer-generated world of chock-a-block superskyscrapers zoomed through by flymobiles swirls and buzzes around us, we get to depend more and more on Stallone's face as an oasis of restful impassivity. Dredd hooks up with a comic nincompoop, played by Rob Schneider, someone for the nerdier viewers to identify themselves with. And this is all I will tell you, except that, if decibels were stars, *Judge Dredd* would be the Milky Way.

■ Such as it is, though, it has an old-fashioned story line and remains superior to the third in the Chiroptera series, *Batman Forever*, an eternity previously arrogated only by the musical *Cats*; but what is sauce for the cat is, no doubt, sauce for the bat. *Batman Forever* achieves what other comic-book adaptations have long vainly striven for: the condition of total, seamless nonsense—in terms of penetrability, absolute zero.

Capitalizing on its hermetic mindlessness, *Batman Forever* has already outgrossed (in more ways than one) the two previous Batman pictures. But there are also other innovations. Whereas the previous director was Tim Burton, the current one is Joel Schumacher, a greater vulgarian. Whereas the previous pro-

tagonist was Michael Keaton, the new one is Val Kilmer, who seems less at ease in the Batman suit and role. The suit, by the way, has been redesigned—there are fashions in everything. So, too, the car: you can't expect a snazzy avenger to drive around in a Model T Batmobile.

In his other identity, Batman is the tycoon Bruce Wayne (double personae are popular in comics, e.g., Superman and Clark Kent) and has a trusty butler who, in the gentlemanly hands of Michael Gough, is the perfect Batman's batman. Nicole Kidman plays the love interest, the criminal pathologist Dr. Chase Meridian, in a way far too apathetic for a pathologist, though, otherwise, her performance is criminal enough. *Batmans*—or is it *Batmen*?—thrive largely on their villains, and this one serves up two. Tommy Lee Jones is Two-Face, a formerly honest D.A. turned vicious when half his face was burned, and he manages to overact equally from both profiles. Jim Carrey, as the campy menace, the Riddler, and a nerdy technocrat, E. Nygma, gets two separate personae (the double identity again) to go bananas with.

The biggest innovation, though, is the reinstatement of Robin, the comic-book Batman's devoted teenage sidekick, previously omitted. But, presumably because Robin raised some prurient speculation about his relationship with Batman, he is played by the twenty-odd-year-old Chris O'Donnell, which makes it, at worst, a case of consenting adults. He gets to wear a junior Batman suit, even more of a hard-rubber version of an anatomical model of the musculature, thus restoring some of the missing ambiguous eroticism.

■ *First Knight*, a feeble retelling of the Camelot story, is not actually based on a comic strip, but everything about it bespeaks a comic-book provenance. It was directed by Jerry Zucker, a guiding light of the *Airplane!* and *Naked Gun* series and thus ideally suited to a cartoon Camelot. Alas, this is not a take-off, but an earnestly dull attempt that even enlisted the screenwriting talent of William (Shadowlands) Nicholson, albeit to scant avail. It is a thrice-told tale with no additions, only minuses: no Merlin, no Morgan le Fay, no Excalibur, no you name it.

The idea, I guess, was to present the material as a straightforward medieval love triangle, by no means the first such



Mr. Simon is NR's film critic.

attempt, and we get two Hollywood Brits: Sean Connery as Arthur, and Tinseltown's new darling, Julia Ormond, as Guinevere. As Lancelot, there is a (Richard) Gere for a Guinevere, who does not fit in at all. A Connecticut Yankee, as we know, did make it to King Arthur's Court; but Gere is far from being even that clubbable—just a big-nosed, squinty-eyed movie star of moderate talent but with something that, evidently, gets the ladies, Queen G. included.

There is something mildly nauseating about Gere's making not the slightest effort to pass for English, and the director's allowing it. But then, the movie is full of absurdities, not least a total fog about whether the action takes place in a couple of days or, as it feels, a minor eternity. Equally preposterous is Lancelot as an itinerant commoner, making a living off besting all comers in public swordsmanship displays. Soon, however, he gets another occupation: rescuing Guinevere from the clutches of the fiendish Malagant over and over again. A dropout from the Round Table, Malagant lusts after Arthur's throne as he ravages and plunders the land. This Malagant is more dread than Mordred (the customary villain) or even Judge Dredd and, as played by Ben Cross, peskier than the heaviest Hollywood heavy.

Sean Connery gives his usual level-headed but tangy performance, a bit routine by now, as Arthur; Julia Ormond, however, I do not get at all. Looking like the British receptionist at a tony American concern, acting with the prissiness of an old-style nanny, and as sexy as a nanny goat, she schoolmarms her way through the film as if she were playing Guinevere's social secretary. Her fabled affair with Lancelot condignly boils down to one solitary kiss, although more robustious than her spousal ones, this being one of those adult movies aimed at the kiddie market. The Round Table is equally disappointing: it might be an oversized board game, where each knight must land his sword in the exact designated spot. No less silly are the costumes, featuring an overgrown steel epaulette on the left shoulder, and no further cumbersome armor. Camelot itself, though designed by the veteran John Box, looks like one of those toy castles for tin soldiers to inhabit. Still, it beats Malagant's stronghold, the habitation of the wicked giant in a Disney cartoon.

Two things only register positively:

the warming presence of John Gielgud as a faithful old retainer, and a mid-night cavalry charge with moonlight

glistening on the horsemen's armor. It is even better than moonlight on the Wabash. □

IN DISPUTE

The Cigar, Revisited

WILLIAM A. RUSHER

IN THE special section on "Pleasure & Its Perils" in the May 1 issue of NATIONAL REVIEW, our young literary editor, David Klinghoffer, took a swing at "pretended pleasures." He cites two well-known examples: one (the "white lie," as in "Doesn't the bride look lovely?") that he approves, and one (which might be called the "white laugh," since it involves laughing at a joke that isn't funny) about which he is somewhat more reserved.

Then he goes on to scorn—quite properly, in my opinion—those who pretend to virtue by admiring what is not admirable but only fashionable (bad foreign films, for example), or by "abstaining from anything that might prematurely deprive [them] of life in this world: fatty foods, booze, and, above all, cigarettes." That sets him up for his final fusillade against water bars, coffee bars, and similar establishments that replace "the old-fashioned, sinful kind of bar where alcohol and tobacco are ingested."

But then Mr. Klinghoffer makes a fatal misstep, complaining that in Manhattan "The first restaurant for cigar smokers has already opened. . . . Today, one chooses . . . not a cigarette (which is inhaled) but a cigar (which is not). . . . In sticking to safe pleasures such as a cigar, and extolling them as if they were the real thing, a person declares his allegiance to the leading ideology of the day: . . . secular left-liberalism, which took God from us and now seeks to take away even the consolation of genuine pleasure."

Cigars "not the real thing"? David, my boy, you have a lot to learn.

First, let's dispose of the notion that

the pleasure of a good cigar must be faked because a cigar isn't inhaled. It's true that a cigar smoker doesn't (simply because he can't) inhale the way a cigarette smoker does: drawing huge billows of smoke into his mouth and thence directly into his lungs, to be exhaled in a great white cloud. Cigar smoke is stronger and thicker than cigarette smoke, and inhaling it that way is simply an invitation to choke.

But watch a cigar smoker carefully. He will draw smoke from the cigar into his mouth, exhale it gently, and then—when it has mixed with the air—inhale a portion of the mixture into his lungs, thereafter exhaling it quietly and almost invisibly. And the air around him will remain perfumed with cigar smoke, and available for further inhalation, almost until he draws on the cigar again.

In other words, the whole point of smoking a cigar is to savor its aroma and flavor, gentled by the air (and, of course to obtain the agreeable "nicotine fix" that all tobacco provides). There is nothing "pretended" about it. As a matter of fact, I would argue that smoking

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Mr. Rusher, NR's former publisher, is a Senior Fellow at the Claremont Institute.

a good cigar is one of the most superbly sensual pleasures known to man. (And perhaps spiritual too—a priest I know calls a cigar “a sacrament.”)

What’s more, just now—right at the apogee of the national anti-smoking hysteria, when everyone’s hand is turned against them—cigars are making a comeback in the United States that deserves to be called historic. The broader cause is a pronounced upswing in the number of men who have decided to spend a little money on enjoying themselves before they die; but the immediate precipitating factor is a new quarterly magazine called *Cigar Aficionado*, published by Marvin Shanken, who also publishes *The Wine Spectator*.

Shanken is a journalistic genius who is well on his way to cornering the market in magazines catering to those in search of self-indulgent luxury. Simply to thumb through his two publications, reading the come-hither articles and looking at the ads (for everything from humidors to yachts), is to be introduced to a world of unrepentant enjoyment.

Cigar Aficionado was launched only about three years ago, but it has already led to a humongous boom in cigar sales—above all, in sales of the very best cigars. Cigar purveyors are being swamped with orders they cannot fill for months; cigar manufacturers are stepping up production as fast as they can, all too aware that they dare not sacrifice quality lest they ruin the reputation of their finest products. Predictably, cigar prices are going through the roof. But nobody seems to care.

On April 19 every one of the 31 Ritz Carlton Hotels in the world participated in an “International Cigar Celebration,” in the form of a sumptuous black-tie dinner (at \$200 a plate) from which those attending took away (if they had not already smoked) eight superb cigars, including a Temple Hall Belicoso, a Paragas Limited Reserve, and a Macanudo Prince of Wales. I was number 54 on the waiting list for the affair at the San Francisco Ritz Carlton until a well-connected friend took pity on me and pulled the necessary strings.

Telling the two hundred guests at that dinner (most of them not old fogies like myself, but young San Francisco businessmen clearly on their way up) that they were proclaiming their “allegiance to the leading ideology of the day: . . . secular left-liberalism” would have invited either hilarity or fisticuffs. I doubt

that anybody there was to the left of Newt Gingrich.

Like anything else, cigars can be overdone. One could, I am sure, smoke too many. (I recently heard of one nonagenarian who has cut back from twenty a day to eight.) And lately, as a result of Marvin Shanken’s indefatigable promotion of their pleasures (and perhaps in an attempt to justify the resulting prices), efforts to describe the ineffable characteristics of particular cigars have begun to display the metaphorical excess that has long bedeviled the description of fine wines: e.g., “filled with cocoa and coffee-bean flavors backed up by smooth woody and leathery notes” (*Cigar Aficionado*, Spring 1995).

But these are quibbles. In the context of contemporary American culture, a good cigar is almost as eloquent as those little American flags that so many of us wore on our lapels in the early 1970s. It proclaims, first of all, that one is an individualist, not easily lured into the deadening conformity of ciga-

rettes—or, worse yet, into the smug self-righteousness of the health fascists of the anti-smoking brigade. It asserts, second, that the cigar-smoker believes in pleasure, is ready to seek it and spend money on it, and takes time to smell, if not the flowers, then at least the seductive aromas of the humidor. Finally, by its historic identification with good food, it speaks also of a high regard for the delights of the table.

“Allegiance to secular left-liberalism”? David, what do you think are passed at Bill Buckley’s home, after one of Pat’s magnificent dinners? What can you hear interfering, every so often, with Rush Limbaugh’s enunciation as he sits there at the microphone lecturing his troops?

De gustibus non est disputandum. But for me, at least, when I have finished lunch and settled into my favorite leather armchair at my club, the Cigar Hour that follows (best of all, of course, with a new issue of *NR* to read) is the very quintessence of felicity—and of conservatism. □

BOOKS IN BRIEF

The True State of the Planet, edited by Ronald Bailey (Free Press, 472 pp., \$15)

THE COURTS protect the nation’s public schools from Christian indoctrination but not from the dogmas of the Green faith. Righteousness consists of consuming less, conserving energy, buying “natural” products, eating less meat, and recycling. Environmentalism is the new civics. The Green worldview has us running out of natural resources, destroying species, endangering the fragile planet, its ozone layer, and its climate, and so forth. The green bible, Lester Brown’s *State of the World*, is in all the schools. This new book is the closest thing going to an alternative bible. It is excellent on population, food supplies, climate, resources, cancer, and air quality. It is competent but longwinded on biodiversity, forests, and fisheries. And the epilogue by Fred Smith is brilliantly original—despite a couple of bizarrely incomprehensible passages. I need a bible class to discover what he means by: “Mariculture, unlike the petroleum industry, has not yet made fishing noneconomic.” But a great buy for \$15, and we need a Gideons to put it in all the schools. —PETER SAMUEL

The Third Culture: Beyond the Scientific Revolution, by John Brockman (Simon & Schuster, 397 pp., \$25)

DIVIDING Western culture into two—scientific and literary—has been a game in progress since the seventeenth century, a game that has led to many exchanges of fire. Mr. Brockman now has a new idea. 1) The belligerent scientific and humanistic cultures are decrepit; they are being replaced by a *third* culture, arising from new sciences of interaction-dependent properties of very complex systems, of order-from-disorder: e.g., evolutionary biology, artificial intelligence, cosmology, computer science. 2) Spearheading this “culture” are literate, book-writing scientists, some of whose ruminations form the text of this book. The book’s meditations range from brilliant (many) to silly (a few)—among the latter, post-modernist musings on hot buttons such as Gaia, the earth mother. Great scientists writing popular books is nothing new. One thinks easily of a dozen, including Einstein. The question is: are there more now, proportionately, than before? I doubt it.

—PAUL R. GROSS

Mr. Eakeley cites an American Bar Association "study" that gave the LSC's migrant programs a clean bill of health. He fails to mention that a number of those on the committee were attorneys affiliated with Legal Services. It is folly to look to the ABA, which this year put aside \$200,000 to lobby on behalf of Legal Services, for an unbiased report.

There is no better illustration of what is wrong with Legal Services than its lawsuit against Mauch Farms. Workers at Mauch Farms are represented by a union, the Farm Labor Organizing Committee (FLOC). A small percentage of migrant workers at Mauch Farms asserted they had not been paid for all the hours they had worked and, although the Mauchs deny this, they and the union agreed upon a settlement that gave each of the 25 workers involved \$228, at a cost to Mauch Farms of \$5,700.

But ABLE, the Legal Services program, did not care that a settlement had been reached. As Jodie Stearns, the Mauchs' attorney, explains, while ABLE's suit was based on the same charges, its financial demands were on a grand scale. It claimed 10 statutory violations at \$500 each. Multiply by 25 and you have \$125,000. And that's just the beginning. ABLE also wants \$200 per person for violation of the Ohio semi-monthly-payment-of-wage statute. And it wants a not yet specified amount for alleged minimum-wage violations under the Fair Labor Standards Act. That's important because under this Act ABLE can obtain huge legal fees from the Mauchs. If the suit is successful, Legal Services will have bankrupted the Mauchs on the basis of an insignificant wage dispute, a telling example of how Legal Service leaves in its wake, not justice, but scorched earth.

Mr. Eakeley's disclaimer of responsibility for the fate of western-Maryland orchards illustrates something characteristic of Legal Services activists: a curious unwillingness to admit that their actions have real-life consequences. But Legal Services *did* close down Fairview Orchards. Tom Wilson, who represented the West German owners in some of the lawsuits, says: "Anyone who believes the major factor in the decision to close down Fairview Orchards was not legal aid and the enormous legal and liability costs forced upon the orchard by the ac-

tivities of Legal Services grantees is just disingenuous." Hepburn Orchards also succumbed to the Legal Services juggernaut; this once thriving enterprise, as one neighbor puts it, "has gone back to nature." The third orchard of commercial size, Bromley's, also closed, in this case partially because of Legal Services suits.

The West Virginia Payment and Collection Act is, as I said, an old and obscure statute designed to prevent abuses like company-store charges in the mining and transportation industries. What Legal Services attorney Gary Geffert did was to take this law, which concerned *deductions* from workers' pay, and "creatively" apply it to the wage *assignments* made by growers in the H2A programs, chief among them to the worker savings accounts of which Mr. Eakeley complains. These accounts were established at the insistence of the Jamaican government acting through the West Indies Central Labor Organization (WICLO), with which the growers contracted. (The agreement was approved by the U.S. Department of Labor.) For the Jamaican government, the savings accounts were an inducement for the worker to return home, rather than stay as an illegal immigrant in the United States. If Legal Services had a quarrel with this, the right address for its suit was the Jamaican government.

The modest health-insurance deduction (none of it kept by the growers) is also mandated by WICLO. As for the alleged \$10 for an appendectomy, come, come, Mr. Eakeley. Noel Heron, chief liaison officer for WICLO, explains how the policy works: "The worker is covered for all medical expenses except the cost of the first visit to the doctor. The \$10 is a wage-loss benefit to the worker for each day he is unable to work and is paid up to 91 days."

DRUG-RELATED Evictions: Mr. Eakeley cites the report by Inspector General Wilkinson as allegedly showing that few Legal Services programs engage in drug-related cases. Here is what Mr. Wilkinson said to me (June 30, 1995): "My report found that the problem of LSC-funded lawyers siding with those whose incomes came from drug trafficking and against the vast majority of poor housing tenants was pervasive and existed in most if not all large urban public-housing projects with drug problems. For

anyone to say that my report suggests otherwise is pure political propaganda."

As for the New York "snapshot," there's something wrong with Mr. Eakeley's camera. In his report, Wilkinson says that the NYCHA cited 513 drug-related evictions in 1989 alone, in nearly a third of which Legal Services represented the tenants. The *New York Times* of August 15, 1994, reported on the efforts of the public-housing tenants association and the New York City Housing Authority to streamline eviction procedures for tenants who sell or manufacture drugs in their apartments. Legal Aid (the program cited by Mr. Eakeley) went to court to stop *any* changes in the existing cumbersome eviction procedures, which now take up to three years. (The case is still in the courts.)

Mr. Eakeley tries to put the best complexion on the drug cases, as if Legal Services only became involved when the charges were "a mistake." Far more typical of the cases Legal Services takes are those cited by the Wilkinson report. For example: "The Northern Kentucky Narcotics Department entered four public-housing units with search warrants, finding numerous firearms, cocaine, cocaine residue, and drug paraphernalia . . . in all four apartments. They also found nearly \$6,000 in cash, three handguns, and a 12-gauge sawed-off shotgun. (Although five arrests were made, LSC attorneys successfully defended tenants the PHA sought to evict.)"

Mr. Eakeley says the LSC does not want to represent drug dealers. That may well be so. The trouble is that the field programs want to represent them, and because the programs enjoy automatic annual re-funding, they have no incentive to pay attention to the LSC board, Congress, or even the provisions of the LSC Act.

Atlanta Legal Aid: Before proclaiming so confidently that I am "Wrong," Mr. Eakeley should read the description of the case in *Clearinghouse Review*, the LSC's own publication: "Moreover, plaintiffs allege that PHA also excludes persons who, although convicted of crimes, have been successfully rehabilitated by completing probation or parole." Rehabilitated by serving time? Who says Legal Services has no sense of humor?

Mr. Eakeley says that if only half my statements concerning Legal Services were true, he would become an opponent of the program. Well, Mr. Eakeley?

—RAEL JEAN ISAAC

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Presidential Patter

NEW YORK, JULY 11

There were about twenty people—mostly men, four women—engaged in myriad activities, including law, banking, journalism, the academy. They have in common a bond to the conservative political enterprise which, to a not inconsiderable degree, is affected by their resolutions. And the evening's extemporaneous subject matter was the presidential race.

The rubric called for direct speech, freed of any obligation to diplomatic protocol. In that spirit, one commentator confessed his sense of security with Senator Dole. "I feel comfortable with opportunists, because I always know what to expect." Dole, most agreed, is scheduled to be nominated, the beneficiary of a Republican tradition that consummates the nomination of the front-runner.

Bush led in 1988 and of course in 1992, and was confirmed by the Republican Convention. Reagan led in 1980, Ford in 1976, Goldwater in 1964. By contrast, the Democrats make way for relatively obscure candidates. The polls reported that 2 per cent of the American people knew, in January 1972, the name of George McGovern: six months later he was nominated for President. The polls in January 1976 recorded 3 per cent of the public knew the name of Jimmy Carter, and 12 months later he was inaugurated President of the United States.

Such arrivals of the star in the third act tend not to happen in the GOP. Accordingly, Mr. Dole would need to slip up, something in which he is practiced, but not something he has done in the past few months, during which his campaign has revealed near-perfect professional performance. Another commentator opined that Dole might well suffer during the campaign, when his age might become visible. FDR was able to campaign in 1944 as if whole in mind and body, but this is not so easily done any more with the ubiquitous television cameras. And even without a slip, there will be some heavy breathing in the voting booths at the prospect of sending to the White House a man who would be 73 when inaugurated, 77 at the turn of the century.

A participant took the floor to pass along something he situated at least half

way between rumor and fact. He had been told (needless to say, by a reliable source) that Colin Powell would figure heavily in the politics of 1996.

Just to begin with, whoever gets the presidential nod, Powell is almost certain to be invited to run for Vice President. If indeed Mr. Dole gets the nomination, Powell will feel a very strong impulse to serve him as Vice President, on the grounds that it is all but inconceivable that Bob Dole would run for a second term. In other words, Colin Powell would be inaugurated as President in January of 2001.

Now on this subject, the commentator went on, his word has it that Powell will, as scheduled, proceed to do his book tour during September and October. But at the end of the tour, he will make a declaration of principles addressed unambiguously to the political scene—and that set of political principles will be unambiguously conservative. That act will immediately make him a presidential candidate unless he rules himself out, intending to accept the Vice Presidency with Dole. We need to remember about General Powell—or to teach ourselves, if we did not know it—that he is the most spellbinding political orator since Reagan. "No one else comes even close to his amalgam of dignity, self-deprecation, firmness, and hope."

Still, whoever it is will need to contend with Bill Clinton. An observer began by reciting the disqualifications of the incumbent. "Just to begin with, he seems to have repealed the public bias against adultery." On every important position he has taken conflicting stands. He is scorned by

the rest of the world, manipulated by his own staff, arrested in his thinking by any visiting shaman. "Still . . . He has the powers of Houdini. Throw him in the trunk of the car with eight chains bound around him, toss the car into the ocean, and before you know it, he comes bobbing up to the surface."

Even now, the observer continued, Clinton is substantially up over his ratings of a few months ago, and it is by no means certain that he will be swamped by the Republican nominee. Anything can happen, which is bad news for the Republic, and there is no insurance policy written to cope with this contingency. □

What to Do About the MIAs?

NEW YORK, JULY 14

Representative Randy Cunningham of California was a navy pilot during the Vietnam War. He was shot down. In recalling those days, in Congress last week, he broke into tears as he spoke of American soldiers who had died in his arms. He said that the Vietnamese had killed American prisoners and were withholding evidence to that effect. His conclusion: The recognition of the government of Vietnam "is not a political issue for me. This is right and wrong."

It isn't easy to talk back to such as Mr. Cunningham, certainly not if one has had no such experience of imprisonment by the Vietnamese. But then Senator John McCain was five and a half years a prisoner who endured torture. So was it with Pete Peterson of Florida. Bob Kerrey of Nebraska wasn't a prisoner, but in pressing the goals of war he won the Congressional Medal of Honor. John Kerry of Massachusetts won a Silver Star. And these four legislators support the recognition of Vietnam.

Whatever one's conclusion in the matter, we need, on meditation, to reject the suggestion that this is a moral question. The recognition of de-facto governments is the American tradition. Cuba and North Korea are exceptions, and the question is, do we want Vietnam to continue as another exception?

Here are the unspoken points in the controversy.

1. There are no Americans alive who were put down as "missing in action." How do we know this? By the application of common sense. Since any live American soldier, captured between 1966 and 1975, surely wishes to return, why would he be kept in Vietnam?



If the Vietnamese kept hinting that a hundred Americans—let alone 1,618 Americans—were going to arrive on a Boeing 747 the day after the United States handed over a billion dollars or whatever, the story of the MIAs would be comparable to the story of the Cubans caught by Castro during the Bay of Pigs invasion, or the Americans held hostage by Iran in 1979. Nothing is more useless than a dead hostage, and for that reason talk about the “whereabouts” of the MIAs should be restricted to talk about where they are buried.

2. If they are buried. Stories about the ferocity of the Vietnamese are not exaggerated, and when Congressman Cunningham is reduced to tears recollecting what the Vietnamese did, we can reasonably assume that his memory is exact. The Vietnamese killed a number of American prisoners. As a matter of fact, Americans killed some Vietnamese prisoners. And Americans killed a great many Vietnamese women and children in air raids. Wars animate the dark side of human nature, and although there is a difference between dropping a bomb on Dresden and executing soldiers at Katyn, no combatting army is at all times governed by the models endorsed by international conventions. The American officer in charge of the Andersonville prisoner-of-war camp a century ago was hanged after the war because of his treatment of prisoners, 13,000 of whom died. He was a Confederate captain, and his victims were American Unionists. We can't hang the malefactors in Vietnam because we lost the war. The short of it is that the Vietnamese don't know where all their victims were buried any more than the Argentines know where *their* victims—dating back only 25 years—were buried, in part because many of them were dropped from airplanes into the sea.

3. The Vietnamese government in recent months has been here and there cooperative in tracking down graves of dead American soldiers, but that government has not come forward with all the records it keeps.

Why is this so?

Almost certainly because those records would reveal that many Americans were in fact either killed, or permitted to die of starvation or of wounds. It should not surprise us that such records are tenaciously kept from view. And one wonders what is the nature of the satisfaction that bereaved wives and mothers would get from knowing that the man they loved, mysteriously missing since that day when he was captured, was in fact killed not in combat, but in detention? What would we have accomplished except the revival of bitterness and

rage? And if we are dealing with the psychological question alone, do we really help the survivor by extinguishing hope, even hope forlorn? Would it satisfy those who have made all but a lifelong mission in search of her, to find the bones of Amelia Earhart? □

Murder Down?

NEW YORK, JULY 18

The headline was wonderfully reassuring to this part of the world. “Murder Rate Plunges in New York City.” There are corollary decreases in other crime—robberies down 22 per cent, auto theft down 25 per cent. The question arises: Is this a statistical blip? If not—if it is a genuine trend downward—what are its causes? More jails? Less crack cocaine? A dulling of the criminal spirit?

The optimists should read the essay in the July *Atlantic Monthly* by Adam Walinsky. For that matter, so should the pessimists. It is an eloquent and heavily informed overview of what has happened in the past three decades, and Mr. Walinsky wonders why America permitted it to happen. Everyone deplores the high rate of crime but there is nothing resembling a true mobilization to combat it.

Here are the salient figures. In the 1960s, for every violent crime committed we had 3.3 police officers. In 1993, for every police officer there were 3.4 violent crimes. Consider New Haven, Connecticut. In 1990, with its population down 14 per cent from 1960, its robberies had increased more than 100 times, or 10,000 per cent. In this perspective, the reduction of crime in New York is, however welcome, a mere fillip. And the figures on police stretch out to less than one-tenth the effective police power of thirty years ago. “. . . in another formulation, each police officer today must deal with 11.45 times as many violent crimes as his predecessor of years gone by.”

We have a half-million police officers, and the proposal in the crime bill of Mr. Clinton was an extra one hundred thousand. How many policemen would we need to add in order to restore the same balance as in 1960 of police to violent crimes? Five million.

Are we making any strides in that direction? Only in the private sector. One and one-half million security officers protect corporations, private residential areas, shopping malls. Good. But a lot of people spend their time outside privately protected areas, like the overwhelming majority of the American people. The

Department of Justice estimates that 83 per cent of all Americans will be victims of violent crime at least once in their lives; about a quarter, victims of three or more violent crimes.

Two out of five killers, Mr. Walinsky advises us, are undetected. These missing killers commit what the trade calls “stranger murders.” The notion that crime is overwhelmingly a matter of passion is simply no longer arguable. And the chances of the stranger murderer getting away are 80 per cent. Walinsky quotes a *New York Times* description of Omar Rosario going to work in a grocery store, whose previous owner was murdered. “Rosario prepares for work by donning a bulletproof vest and sliding a 9-millimeter semi-automatic into his waistband. When a young man with one arm hidden inside his coat enters the store, ‘Mr. Rosario takes out his pistol and eases it halfway into the pocket of his pants, his finger on the trigger. He faces the man and lets him see the gun in his hand. He wants to make it clear that if the young man pulls a gun, he will be killed.’”

That's one way to go, but it hasn't had a large effect. In the last ten years, twice as many Americans were killed by strangers as were on the battlefield during the ten years we fought in Vietnam. In the black community the statistics are dire: One out of every 21 black men is killed, double the rate of American servicemen in the Second World War. “The collapse of the black lower class is a creation not of history but of this generation. It has been a deliberate if misguided act of government to create a welfare system that began the destruction of black family life. It was the dominant culture that desanctified morality, celebrated license, and glorified fecklessness.”

Adam Walinsky has for many years advocated a Police Corps, an ROTC that would offer four-year college scholarships to young people in return for four years of police service following their graduation. This is not an expenditure from which the Contract crowd should shrink. To begin with, it is to confirm the most solemn obligation of government, which is to provide for domestic security. “President Clinton has requested \$261.4 billion for defense against foreign enemies who killed fewer than a hundred Americans in all of last year. It would be silly to suggest that the Federal Government should not or cannot spend an eighth as much—2 per cent of even a shrunken federal budget—to defend the nation against domestic enemies who killed more than 10,000 people who were strangers to them in 1994, and who will surely kill more in every year that lies ahead.” □

(Universal Press Syndicate)

THE GIMLET EYE

ANDREW FERGUSON

I SING the Burger Electric," Walt Whitman famously wrote, in his famous collection, *Burgers of Grass*. As every Am. Lit. student knows, the hirsute songster soared to ever higher states of ecstasy as he contemplated the object of his love.

I am mad for the juice, white hot and luscious, the damp bun (I crave the damp bun), the slice of crisp onion also, the sliced crispness atop the quivering patty sits, not as a king sits, there is no hierarchy here, no ordering of fiefdoms and tyrannies, only the processed American-cheese food, melting in the cleavage of the burger, spread-eagled, offers up, it merges in mustard, ketchup, mayonnaise, pickle relish! Grease damping my chest hairs I yawp: This is miracle enough.

It was for just such raptures that Emerson, an early mentor of Walt's, dubbed Whitman "the bard of the backyard grill."

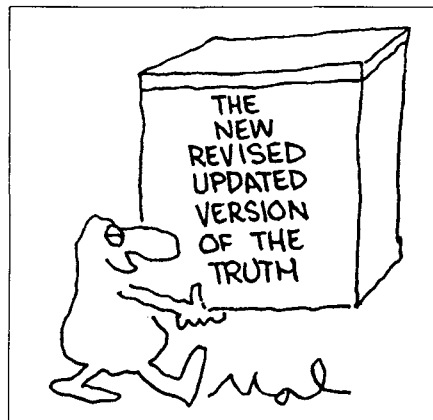
All right, so sue me, I'm making it all up. Whitman didn't soar into famous raptures in contemplation of the hamburger; he didn't know from hamburger. But if he had known about it you can be sure he would have soared into at least a semi-rapture, and I for one would have been glad of it, for the burger needs a bard. It requires hymns of praise. Here in the humid deeps of summer, the grilled burger holds out for some of us the season's sole consolation. Yet one scans in vain the volumes of American poesy for tributes whose eloquence does justice to the hamburger. The closest I've come—and it's actually pretty damn close—is Chuck Berry's immortal lines (which I paraphrase): "I'm so glad to be livin' in the USA / Where hamburgers sizzle on an open griddle night and day."

I treasure these lines because they capture perfectly what I love about the burger-as-concept, which is the mingling of jingoism and cuisine. Burgers are *our* food; they are American. And they are not "American" in the forced, prissy manner of "new American

cuisine," where free-range, steroid-free Santa Fe chicken is seasoned with home-grown spices culled from sagebrush and tumbleweed. This much-celebrated new American cuisine—hog jowls with cilantro! grits drizzled with tarragon butter!—is the product of an inferiority complex, a sly emulation of Europeans, whom we take, mistakenly, to be our betters.

It is therefore un-American. The Americanness of burgers lies in precisely the opposite, in their forthrightness, their lack of pretense and pomposity. Burgers are made of flesh ripped from the bone of dumb animals. The flesh is ground in the iron jaws of machines and pressed by human hands into little pucks, then seared by brutal heat. Juices spatter. Traces of blood drip from the chin. Chunks of meat cling to the teeth. It is hard to imagine anything more American.

I don't mean to suggest that burgers don't allow for creativity. My own preparation of burgers has over time taken on the precise maneuvers of a Japanese tea ceremony. At the grocery store I forgo those packages of meat stamped with the little stickers declaiming, "Only 6% fat!" I want fat (I am mad for fat). The fat percentage should be in double digits, into the high twenties if possible. At home I place the beef in a large bowl and sprinkle it with mysterious seasonings. I prepare my grill. I soak wood chips to toss on the coals, generating huge clouds of smoke for an ineffable, if carcinogenic, flavor. I



Mr. Ferguson is a senior editor of The Weekly Standard.

buy the buns specially from a local baker, then toast them to finely measured crispness. And so on.

Does this sound a trifle precious—almost, dare I say it, European? ("Do I contradict myself?" Whitman famously wrote. "Very well then I contradict myself. I am large, I've been eating burgers.") In truth my burger standards are flexible. I won't insist on the wood chips or the seasoning or the covered, smoke-filled grill; in a pinch I'll even settle for McDonald's. Like every burger buff I have my favorite commercially sold burgers, and the best of them are better than mine, for all my exquisite preparations.

B LOOMINGTON, Indiana, for example, boasts a hamburger stand called Hinckles, where the burgers are fresh ground daily. Smashed onto the ancient griddle, then flipped by expert hands, they can make a grown man weep. I remember, too, from my days in the Midwest, the great gut bombs and sliders of White Castle. You'd order a sack and when you got home the grease would have soaked through the paper, so that meat and wrapper became indistinguishable, enhancing flavor. I know that nostalgic Englishmen speak wistfully of their favorite fish-and-chip houses for the same soaked-bag effect. But fish are delicate, silvery creatures. White Castle offers grease from hearty animals that can stand motionless for hours in a sylvan pasture, defecating. You tell me which is more impressive.

The one thing I insist on—and I don't think I'm being unreasonable about this—is that the burger be made of, well, burger. I once admired Our President for his ability to consume burgers unabashed. You'd hear stories about his eating, about the jalapeños piled on the presidential patty, and melted cheese slathered with mayonnaise, and chopped onions spilling out—all for a post-jog snack! Recently, however, my colleague Robert Shoffner wrote in *The Washingtonian* that Bill Clinton has converted to a health-Nazi concoction called "Boca Burger." I will let you read the ingredients while I leave the room: "soy with purified water, potato starch, soy fiber, dehydrated onion, caragoenan (natural extract of an ocean plant), fresh garlic, and malt extract."

Need I add that this was all Hillary's idea? □

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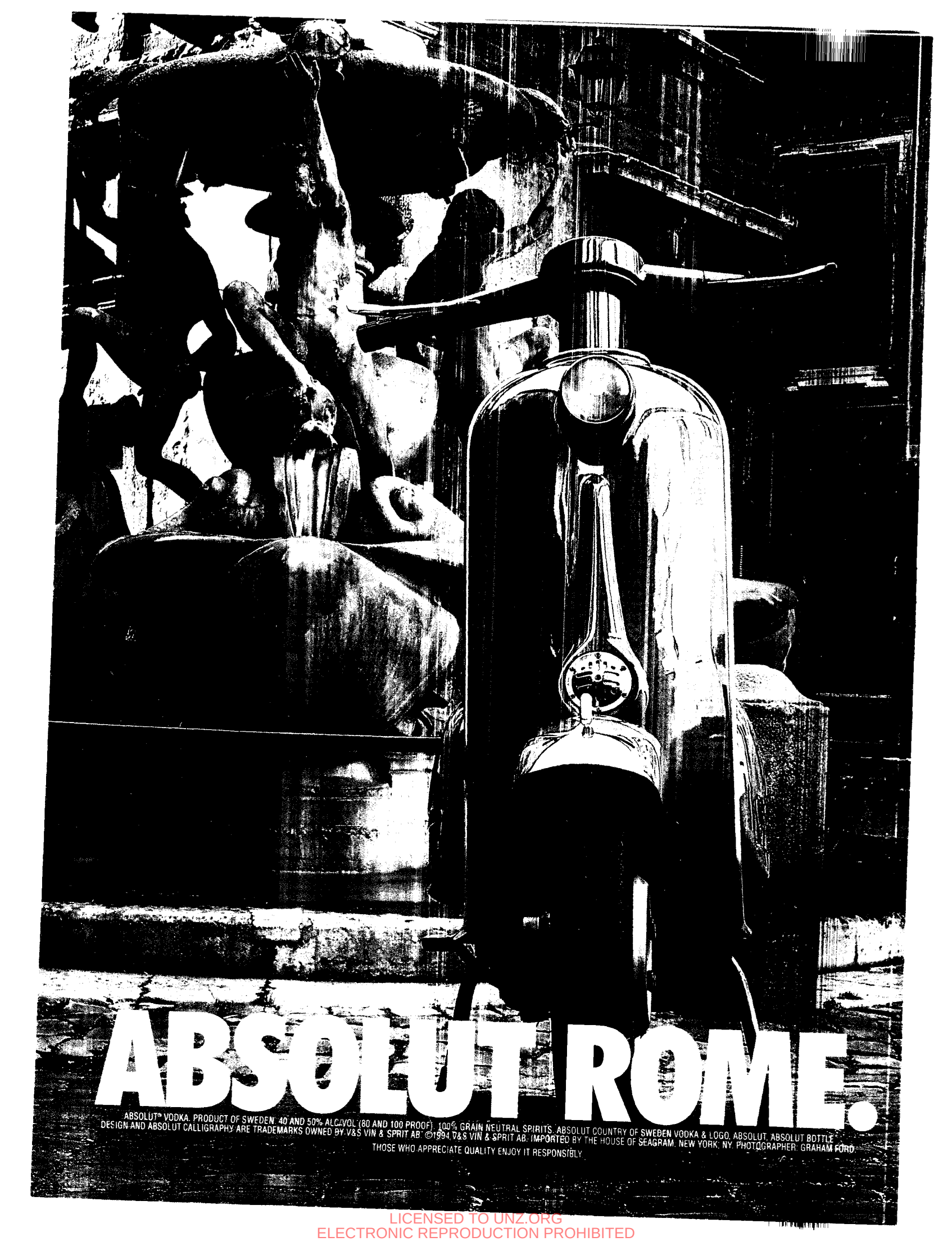
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